

SESSION LAWS
OF
HAWAII
PASSED BY THE
THIRTEENTH STATE LEGISLATURE

REGULAR SESSION
1986

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and
Adjourned sine die on Wednesday, April 23

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AUTHORITY

Section 23G-13, Hawaii Revised Statutes, provides as follows:

Publishing of session laws. As soon as possible after the close of each session of the legislature, the revisor of statutes shall prepare for publication all laws duly enacted at such session, arranged in the order of their becoming law, together with a suitable index and tables showing what general statutes have been affected by such session laws.

PREFACE

This volume contains all the laws of the Regular Session of 1986. The text of the laws as enacted is followed except for palpable clerical errors, which have been corrected; and the text is printed in full except for laws repealing existing statutes.

As authorized by HRS §23G-16.5, amendatory legislation contains brackets (designating matter deleted from statutes) or underscoring (designating new matter added). However, the text is edited to omit the bracketed matter for HRS sections repealed in their entirety and to delete the underscoring from new HRS sections.

Explanatory notes appear at the end of the corresponding laws. The notes clarify editorial changes and inconsistencies in text.

Samuel B. K. Chang
Revisor of Statutes

Honolulu, Hawaii
July 20, 1986

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**Session Laws of Hawaii
Passed By The
Thirteenth State Legislature
Regular Session
1986**

ACT 1

H.B. NO. 1779-86

A Bill for an Act Making Appropriations to Provide for the Expenses of the Legislature, the Legislative Auditor, the Legislative Reference Bureau, and the Ombudsman.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,475,524, or so much thereof as may be necessary, for defraying any and all session and nonsession expenses of the Senate up to and including June 30, 1987, including but not limited to the 1986 regular session, Thirteenth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1986 and 1987 regular sessions.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,213,695, or so much thereof as may be necessary, for defraying any and all session and nonsession expenses of the House of Representatives up to and including June 30, 1987, including but not limited to the 1986 regular session, Thirteenth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1986 and 1987 regular sessions.

SECTION 3. Payment of expenses of the Senate during the interim between the 1986 and 1987 regular sessions shall be made only with the approval of the President of the Senate, and payment of expenses of the House of Representatives during the interim between the 1986 and 1987 regular sessions shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 21, 1987, the Senate and the House of Representatives shall have their accounts audited and a full report of such audit shall be presented to the Senate and to the House of Representatives of the Legislature convening on January 21, 1987.

SECTION 5. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature shall not be limited by the provisions of section 78-15, Hawaii Revised Statutes, or by any other general

ACT 2

statute. Until otherwise prescribed by law, the expenses of such member shall be \$90 a day and authorized by the President of the Senate and the Speaker of the House of Representatives, respectively.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,866,549, to the office of the legislative auditor for the following expenses: (a) the sum of \$1,439,000, or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1986-1987; (b) the sum of \$277,549, or so much thereof as may be necessary, for defraying the expenses of the office of the state ethics commission during the fiscal year 1986-1987; (c) the sum of \$150,000, or so much thereof as may be necessary during the fiscal year 1986-1987, for (1) performing special studies, (2) improving capabilities for planning, programming and budgeting, (3) fulfilling other special requests made of the legislative auditor by the Legislature or jointly by the President of the Senate and the Speaker of the House of Representatives, (4) legislative studies and for contractual services for such studies, and (5) such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,353,491, or so much thereof as may be necessary, to the legislative reference bureau for defraying the expenses of the bureau during the fiscal year 1986-1987, including equipment relating to computer systems programming and operations, and the sum of \$25,000, or so much thereof as may be necessary for fiscal year 1986-1987, to provide initial seed money for the 1987 Western Legislative Conference of the Council of State Governments. Private contributions may be used to supplement this appropriation or instead of this appropriation. The office of the legislative reference bureau shall expend the moneys from this appropriation at the direction of the president of the senate and the speaker of the house of representatives. Such expenditure may include transfer of the appropriation, upon the direction of the president of the senate and the speaker of the house of representatives to an account authorized by the president of the senate and the speaker of the house of representatives.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$390,400, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during the fiscal year 1986-1987.

SECTION 9. As of the close of business on June 30, 1987, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 10. Each section of this Act is declared to be severable from the remainder of this Act.

SECTION 11. This Act shall take effect upon its approval.

(Approved February 3, 1986.)

ACT 2

S.B. NO. 92

A Bill for an Act Relating to Commercial Marine Dealers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 189-10, Hawaii Revised Statutes, is amended to read as follows:

"§189-10 Commercial marine dealers to report. Every commercial marine dealer [who engages in the business of buying or selling marine life or products taken within, or adjacent to, the waters of the State,] shall render to the department [of land and natural resources] on or before the tenth day of each month on blanks to be furnished by the department, a true and correct statement showing the name of the commercial marine dealer; year; month; day; weight[.]; number[.]; [and] value of each of the species of marine life purchased, transferred, [received,] exchanged, or sold during the previous month[.]; name and current license number of the commercial marine licensee from whom the marine life was obtained; and such other information as the department may require."

SECTION 2. Section 189-11, Hawaii Revised Statutes, is amended to read as follows:

"§189-11 Receipts in duplicate. Every commercial marine dealer [who engages in the business of buying or selling marine life or products taken within, or adjacent to, the waters of the State, who receives marine life or products from any person,] shall issue receipts to the person from whom marine life is [received] obtained and shall give in the receipt (1) the date of the issuance; (2) the name of the person to whom the receipt is issued; (3) the following information with respect to each of the varieties of marine life as the department [of land and natural resources] shall require[.] including: the weight in pounds of each of the varieties received, the numbers of marine life when they average a pound or more, the price per pound paid; and (4) the signature of the dealer who issues the receipt. Any dealer taking his own marine life or handling any marine life taken by commercial marine licensees working for or with him, shall make out the same receipt, giving market price for the marine life as prevails on the date of receipt. A duplicate copy of this receipt shall be kept on file by the dealer issuing the same for a period of six months, and the duplicate copy shall be available for inspection at any time within six months, upon demand of the department."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect beginning July 1 following its approval.

(Approved March 13, 1986.)

ACT 3

H.B. NO. 107¹

A Bill for an Act Relating to State Warrants.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 40-56, Hawaii Revised Statutes, is amended to read as follows:

"§40-56 Warrants for supplies, incidentals. Warrants for bills of materials, supplies, and incidentals of every kind and character, shall be made

ACT 3

payable to the order of each individual person to whom the State is indebted, except as provided in section 40-58, and only after an original warrant voucher shall have been presented to the comptroller accompanied by all original bills and any other supporting document as may be required by the comptroller. The original warrant voucher shall have indorsed thereon the approval of the officer in whose department the liability or expense has been incurred, and the appropriation to which it is chargeable; and further, each original bill shall be specially certified to by the subordinate officer of the State directly incurring the liability or expense that all the materials, supplies, and incidentals have been received in good order and condition[.], unless the bill is for an advance payment or a deposit to be paid as specified in the department's purchase order, in which case the certification of the original bill by the subordinate officer is not required. Any advance payment made under this section must conform to the common business practice for making such payment as determined by the comptroller."

SECTION 2. Section 40-57, Hawaii Revised Statutes, is amended to read as follows:

"§40-57 Warrants on account of contracts. All warrants for bills on account of state contracts shall be made payable to the order of the person to whom the State is directly indebted, except as provided in section 40-58, and only after an original warrant voucher shall have been presented to the comptroller accompanied by all original bills and any other supporting document as may be required by the comptroller. The original warrant voucher shall have indorsed thereon the approval of the officer in whose department the contracts have been made, and the appropriation to which it is chargeable; and further, each original bill shall be specially certified to by the subordinate officer of the State supervising the work performed, or receiving the materials and supplies as specified in the contracts, that the work has been faithfully performed and that the materials and supplies were in a good and merchantable condition when received[.], unless the bill is for an advance payment or a deposit to be paid as specified in the department's contract, in which case the certification of the original bill by the subordinate officer is not required. No warrant shall be issued unless a copy of the contract or bid shall have been filed with the comptroller, together with a statement by the head of the department or agency that made the contract or accepted the bid, naming the appropriation to which the contract or bid is to be chargeable."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved March 18, 1986.)

Note

1. H.B. No. 107 was initially approved by the Governor on March 18, 1986, and designated as Act 3. However, the Governor was subsequently informed that the bill had not yet passed a constitutionally required additional reading and had been, through oversight, prematurely presented to him. Since Act 3 appeared to be constitutionally invalid and the Legislature was still in session, the Governor returned the bill to the Legislature for the required additional reading. The bill that passed the required additional reading and that was thereafter presented to and approved by the Governor is Act 94.

ACT 4

H.B. NO. 2022-86

A Bill for an Act Relating to the Hawaii Community Development Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 206E-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Whenever the authority shall determine to undertake, or cause to be undertaken, any public facility as part of the district-wide improvement program, the cost of providing said public facilities shall be assessed against the real property in the community development district specially benefiting from such public facilities. The authority shall determine the areas of the community development district which will benefit from the public facilities to be undertaken and, if less than the entire community development district benefits, the authority may establish assessment areas within the community development district. The authority may issue and sell bonds in such amounts as may be authorized by the legislature to provide funds to finance such public facilities. The authority shall fix the assessments against real property specially benefited. All assessments made pursuant to this section shall be a statutory lien against each lot or parcel of land assessed from the date of the notice declaring the assessment until paid and such lien shall have priority over all other liens except the lien of property taxes. As between liens of assessments, the earlier lien shall be superior to the later lien.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved March 18, 1986.)

ACT 5

S.B. NO. 1641-86

A Bill for an Act Relating to Breeding of Animals in Quarantine.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-7, Hawaii Revised Statutes, is amended to read as follows:

“**§142-7 Breeding in quarantine prohibited[; penalty].** The use of [a domestic] any animal for breeding purposes while the [domestic] animal is quarantined is prohibited, except that the department of agriculture may, with the written permission of the owner and under rules [and regulations] adopted by the department, permit the collection of semen from the [domestic] male animal or the artificial insemination of the [domestic] female animal while in quarantine by a licensed veterinarian under the supervision of an agent of the department. [Any person violating this section shall be fined not more than \$100 or imprisoned not more than sixty days.]”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved March 24, 1986.)

ACT 6

S.B. NO. 1648-86

A Bill for an Act Relating to Cooperation with Federal Authorities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-21, Hawaii Revised Statutes, is amended to read as follows:

"§142-21 Cooperation with federal authorities. The department of agriculture may cooperate with the [Federal Bureau of Animal Industry] United States Department of Agriculture in its efforts to eradicate bovine tuberculosis or any other transmissible disease of animals, and may make appraisals of condemned animals and report on the salvage derived from the sale of the animals in conformity with the regulations of the [federal bureau.] United States Department of Agriculture."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved March 24, 1986.)

ACT 7

S.B. NO. 1649-86

A Bill for an Act Relating to Disposal of Tuberculous Animals.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-18, Hawaii Revised Statutes, is amended to read as follows:

"§142-18 Disposal of tuberculous animals. The owner of all cattle reacting to the tuberculin test shall, subject to section 142-16, cause them to be segregated immediately and, within a reasonable time thereafter, to be delivered for slaughter at such time and place as may be designated by the department of agriculture. The slaughter shall be under the direct supervision of the department and in accordance with the meat inspection regulations of the [Federal Bureau of Animal Industry.] United States Department of Agriculture."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved March 24, 1986.)

ACT 8

S.B. NO. 1647-86

A Bill for an Act Relating to Harboring Mongoose.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 142, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§142- Mongoose; killing allowed. No person shall be prohibited from killing a mongoose in any manner not prohibited by law, including by trapping.”

SECTION 2. Section 142-92, Hawaii Revised Statutes, is amended to read as follows:

“§142-92 Mongoose; keeping or breeding; penalty. It shall be unlawful for any person to introduce, keep or breed any mongoose within the State except upon and according to the terms of a written permit which may be granted therefor by the department of agriculture, in its discretion, to scientists, scientific institutions, associations, or colleges, or to officers, boards, or commissions of the State or any county [excepting the county of Kauai]. The department shall not issue a permit authorizing the keeping or breeding of mongoose within either the county of Kauai or the island of Lanai. Any person who violates this section shall be fined not less than \$250 nor more than \$1,000 for each mongoose introduced, kept or bred contrary to this section.”

SECTION 3. Section 142-93, Hawaii Revised Statutes, is amended to read as follows:

“§142-93 Harboring mongoose; penalty. Any person harboring, feeding, or in any way caring for a mongoose, except upon and according to the terms of a written permit which may be granted therefor by the department of agriculture, in its discretion, to scientists, scientific institutions, associations, or colleges, or to officers, boards, or commissions of the State or any county, shall be [fined not more than \$50 or imprisoned not more than fifty days, or both.] penalized pursuant to section 142-12.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved April 5, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 9

H.B. NO. 2046-86

A Bill for an Act Relating to Civil Penalties.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 480-3.1, Hawaii Revised Statutes, is amended to read as follows:

“§480-3.1 Civil penalty. Any person, firm, company, association, or corporation violating any of the provisions of section 480-2 shall be fined a sum of not less than \$500 nor more than \$10,000 for each violation, which sum shall be collected in a civil action brought by the attorney general or the director of the office of consumer protection on behalf of the State. The penalties provided in this section are cumulative to the remedies or penalties available under all other laws of this State. Each day that a violation of section 480-2 occurs shall be a separate violation.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 5, 1986.)

ACT 10

H.B. NO. 2104-86

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART NEWBORN METABOLIC SCREENING

"§321- Tests for phenylketonuria, hypothyroidism, and other metabolic diseases. (a) The department of health may specify diseases to be screened for in newborn infants and methods to be employed, to best prevent mortality and morbidity within the population of the State.

(b) The person in charge of each institution caring for newborn infants and the responsible physician attending the birth of a newborn or the person assisting the birth of a child not attended by a physician, shall ensure that every infant in the person's care be tested for phenylketonuria, hypothyroidism, and any other disease that may be specified by the department of health; provided that this section shall not apply if the parents, guardian, or other person having custody or control of the child object thereto on the grounds that the tests conflict with their religious tenets and beliefs and written objection is made a part of the infant's medical record.

(c) The department of health shall adopt rules pursuant to chapter 91, necessary for the purposes of this section, including, but not limited to:

- (1) Administration of newborn screening tests;
- (2) Quality and cost control of screening tests;
- (3) Keeping of records and related data;
- (4) Reporting of positive test results;
- (5) Guidelines for care, treatment, and follow up of infants with positive test results;
- (6) Informing parents about the purposes of these tests; and
- (7) Maintaining the confidentiality of affected families."

SECTION 2. Section 321-52.5, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved April 5, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 11

S.B. NO. 200

A Bill for an Act Relating to the Board of Private Detectives and Guards.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 463-2, Hawaii Revised Statutes, is amended to read:

“§463-2 Board of private detectives and guards; appointment; qualifications; term. Appointment and removal. There shall be a board of detectives and guards consisting of seven members, six of whom shall be nominated, and by and with the advice and consent of the senate, appointed by the governor. The terms of such members shall be for four years. [Each term shall commence on January 1 and expire on December 31.] No person shall be appointed consecutively to more than two terms, provided that such membership shall not exceed eight consecutive years. The director of commerce and consumer affairs shall be an ex officio nonvoting seventh member of the board and may designate a representative to sit in his stead.

Of the six appointed members, two shall be chiefs of police of any of the four counties, two shall be private citizens not engaged in any of the licensed practices, and two shall be persons actively engaged in any of the licensed practices; provided that one person shall be a licensed private detective and one person shall be a licensed guard.

The board shall examine applicants for private detective or guard licenses, grant licenses, and revoke or suspend licenses of licensees who violate this chapter.”

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 10, 1986.)

ACT 12

S.B. NO. 1527-86

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 521-44, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) For the purposes of this section if a tenant is absent from the dwelling unit for a continuous period of [thirty] twenty days or more without written notice to the landlord the tenant shall be deemed to have wrongfully quit the dwelling unit[.]; provided that the tenant shall not be considered to be absent from the dwelling unit without notice to the landlord during any period for which the landlord has received payment of rent. In addition to any other right or remedy the landlord has with respect to such a tenant the landlord may retain the entire amount of any security deposit he has received from or on behalf of such tenant.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 10, 1986.)

ACT 13

S.B. NO. 1576-86

A Bill for an Act Relating to Motor Vehicles Under Warranties.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 490:2-313.1, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) If a manufacturer has established or participates in an informal dispute settlement procedure which substantially complies with title 16, Code of Federal Regulations, part 703, as from time to time amended, the provisions of subsection (b) concerning refunds or replacement shall not apply to any consumer who has not first resorted to such procedure. Where the informal dispute procedure is invoked by the consumer over a new motor vehicle under express warranties, a decision resolving the dispute shall be rendered within forty-five days after the procedure is invoked. If no decision is rendered within forty-five days as required by this subsection, the dispute shall be submitted to the regulated industries complaint office, department of commerce and consumer affairs for investigation and hearing.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 10, 1986.)

ACT 14

S.B. NO. 1912-86

A Bill for an Act Relating to Motor Vehicle Accident Reparations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 294-33, Hawaii Revised Statutes, is amended to read as follows:

“**§294-33 Discriminatory practices prohibited.** No insurer shall base any standard or rating plan, in whole or in part, directly or indirectly, upon a person's race, creed, ethnic extraction, age, sex, length of driving experience, credit bureau rating, [or] marital status[.], or physical handicap.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 10, 1986.)

ACT 15

S.B. NO. 2130-86

A Bill for an Act Relating to the Aged.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 8, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§8- Respect for Our Elders Day. The third Sunday of October shall be known and recognized as “Respect for Our Elders Day” during which our elders may be honored with appropriate displays, celebrations, and ceremonies. Respect for Our Elders Day shall not be taken as a state holiday.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 10, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 16

S.B. NO. 2358-86

A Bill for an Act Relating to Hawaiian Home Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to authorize the department of Hawaiian home lands to participate under the “Indian Economic Development Act of 1985” or any other legislation enacted by the United States Congress or by the legislature of the State of Hawaii that provides for the establishment of one or more enterprise zones on Hawaiian home lands, provided that such participation will result in economic benefits to native Hawaiians.

SECTION 2. The Hawaiian Homes Commission Act, 1920, as amended, is amended by adding a new section to be appropriately designated and to read as follows:

“§ . Enterprise zones. The department is authorized to participate in any federal or State program that permits the establishment of one or more enterprise zones on available lands, provided that participation in the program will result in economic benefits to native Hawaiians. The administration of the program shall be governed by rules adopted by the department in accordance with chapter 91, Hawaii Revised Statutes.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved April 10, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 17

H.B. NO. 1973-86

A Bill for an Act Relating to Form of Summons and Citation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-30, Hawaii Revised Statutes, is amended to read as follows:

ACT 18

“[[§142-30[]] Form of [summons and citation.] citation and summons. There shall be printed a form of [summons and] citation and summons for use in citing violators of [Part I of] this chapter and [regulations promulgated] rules adopted pursuant thereto.] warning the person to appear and answer the charge against the person at a place and at a time within seven days after the citation. The citation and summons shall be so designed to include all necessary information to make it valid and legal within the laws and rules of the State. The form and contents of [such summons and] the citation and summons shall be as adopted or prescribed by the district courts.

In every case when a [summons and] citation and summons is issued, the original [of the same] shall be given to the accused; provided that[,] the district courts may prescribe the issuance to the accused of a carbon copy of the [summons and] citation and summons and provide for the disposition of the original and any other copies. Every [summons and] citation and summons shall be consecutively numbered and each carbon copy shall [be consecutively numbered and each carbon copy shall] bear the number of its respective original.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 10, 1986.)

ACT 18

H.B. NO. 1975-86

A Bill for an Act Relating to Administration of Oath.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-31, Hawaii Revised Statutes, is amended to read as follows:

“[[§142-31[]] Administration of oath. When a complaint is made to any prosecuting officer of the violation of the provisions of [Part I of] this chapter and all rules [and regulations promulgated and] adopted pursuant thereto, the officer or employee who issued the citation and summons shall subscribe to it under oath administered by another official [or officials] of the department of agriculture whose [names have] name has been submitted to the prosecuting officer and who [have] has been designated by the chairman of the board of agriculture to administer [the same.] oaths.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 10, 1986.)

ACT 19

H.B. NO. 2028-86

A Bill for an Act Relating to Bonding of Solar Energy Device Dealers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“[[(c)]] The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- [(4) Chapter 468B (Solar Energy Device Dealers)
- (5)] (4) Chapter 468K (Travel Agencies)
- [(6)] (5) Chapter 373 (Commercial Employment Agencies)
- [(7)] (6) Chapter 442 (Board of Chiropractic Examiners)
- [(8)] (7) Chapter 448 (Board of Dental Examiners)
- [(9)] (8) Chapter 436E (Board of Acupuncture)”

SECTION 2. Chapter 468B, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 10, 1986.)

ACT 20

S.B. NO. 1743-86

A Bill for an Act Relating to Capital Authorizations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is recommended by the Governor for immediate passage in accordance with Article VII, Section 9 of the Constitution of the State of Hawaii.

SECTION 2. The purpose of this Act is to appropriate money to allow the department of social services and housing to begin construction immediately to increase the bedspace available at the Oahu community correctional center and the Hawaii women's correctional facility, and minimize, if not avoid, the likelihood of the State being found in contempt of the consent decree entered in Spear v. Ariyoshi, Civil No. 84-1104 (U.S.D. Haw.), by amending Act 300, Session Laws of Hawaii 1985.

SECTION 3. Part IV, section 136, of Act 300, Session Laws of Hawaii 1985, is amended by adding to the authorized public safety capital improvement projects an additional capital improvement project at the Oahu community correctional center (SOC407) to read as follows:

**"5A. CD8704 OCCC KEEHI ANNEX ADDITION
PLAN, DESIGN, CONSTRUCT AND EQUIP A NEW INMATE
RESIDENCY FACILITY AT THE KEEHI ANNEX, OCCC**

	FY 1985-86
PLANS	56
DESIGN	250
CONSTRUCTION	1,734
EQUIPMENT	1
TOTAL FUNDING	2,041C"

SECTION 4. Part IV, section 136, of Act 300, Session Laws of Hawaii 1985, is amended by adding to the authorized public safety capital improvement projects a capital improvement project at the Hawaii women's correctional facility (SOC409) to read as follows:

"SOC409 - HAWAII WOMEN'S CORRECTIONAL FACILITY

**5B. CD8705 WCCC CANOE HOUSE RENOVATION RENOVATE CA-
NOE HOUSE TO PROVIDE A RESIDENCY FACILITY FOR IN-
MATES AT THE HAWAII WOMEN'S CORRECTIONAL FACILITY
(WOMEN'S COMMUNITY CORRECTIONAL CENTER)**

	FY 1985-86
PLANS	1
DESIGN	3
CONSTRUCTION	57
TOTAL FUNDING	63C"

SECTION 5. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, section 13, of the State Constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.", the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the state is set forth in Article VII, section 13, of the State Constitution, which states in part: "General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty per cent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half per cent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance." Article VII, section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including "reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made

from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year.”

- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1985-86 and estimated for each fiscal year from 1986-1987 to 1988-1989, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1982-83	1,218,675,016	
1983-84	1,320,280,833	
1984-85	1,439,541,519	
1985-86	1,489,497,000	245,340,671
1986-87	1,590,993,000	262,041,360
1987-88	1,677,370,000	278,735,277
1988-89	(NOT APPLICABLE)	293,401,367

For fiscal years 1985-86, 1986-87, 1987-88, and 1988-89 respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 1982-83, 1983-84, and 1984-85 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1985, dated November 27, 1985. The net general fund revenues for fiscal years 1985-86 to 1987-88 are estimates, based on general fund revenue estimates made as of January 10, 1986 by the council on revenues, the body assigned by Article VII, section 7, of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. As certified by the director of finance in the most recent Certificate of the Debt Limit of the State of Hawaii dated March 20, 1986, the total amount of principal and interest on outstanding general obligation bonds for determining the power of the State to issue general obligation bonds within the debt limit is as follows for fiscal year 1986-87 to fiscal year 1992-93:

Fiscal Year	Principal and Interest
1986-87	213,920,056
1987-88	213,649,061
1988-89	211,633,856
1989-90	200,417,174
1990-91	191,216,198
1991-92	178,341,579
1992-93	166,163,803

The Certificate of Debt Limit as of March 20, 1986, further shows that the amount of principal and interest on outstanding bonds applicable to the debt limit continues to decline each year from fiscal year 1993-94 to fiscal year 2011-12 when the final installment of \$15,347 shall be due and payable.

- (4) Amount of authorized and unissued general obligation bonds and bonds authorized by this Act. As calculated from the state

comptroller's bond fund report as of December 31, 1985, adjusted for appropriations to be funded by general obligation bonds and reimbursable general obligation bonds as provided in Act 169, Session Laws of Hawaii 1985 (Judiciary Appropriations Act of 1985) and Act 300, Session Laws of Hawaii 1985 (General Appropriations Act of 1985) to be expended in the fiscal year 1986-87 and for the \$75,000,000 general obligation bonds dated March 1, 1986, Series BE, the total amount of authorized but unissued general obligation bonds is \$412,399,691. The total amount of general obligation bonds authorized by this Act is \$2,104,000. The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds authorized by this Act is \$414,503,691.

- (5) Proposed general obligation bond issuance. As reported by the department of budget and finance for fiscal years 1986-87, 1987-88, 1988-89, the State proposes to issue \$80,000,000 semiannually in each of fiscal years 1986-87, 1987-88, and 1988-89. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal installments of principal, and interest payments commencing six months from the date of issuance and being paid semiannually thereafter. It is assumed that this practice will continue to be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during the fiscal years 1986-87 and 1987-88 is \$320,000,000. An additional \$160,000,000 is proposed to be issued in fiscal year 1988-89. The total amount of \$320,000,000 which is proposed to be issued through fiscal year 1987-88 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is \$414,503,691, as reported in paragraph (4), except for \$94,503,691. It is assumed that the appropriations to which an additional \$94,503,691 in bond issuance needs to be applied will have been encumbered as of June 30, 1988. The \$160,000,000 which is proposed to be issued in fiscal year 1988-89 will be sufficient to meet the requirements of the June 30, 1988, encumbrances in the amount of \$94,503,691. The amount of assumed encumbrances as of June 30, 1988 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1988, and the amount of June 30, 1988, encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1988-89, the legislature finds that in the aggregate, the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.

- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because;
- (A) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
 - (B) While at the present time, all of the special funds which are required to make reimbursements to the general fund on bonds issued are in a condition to qualify all of the reimbursable bonds for exclusion, it cannot be stated with certainty that such a condition will continue.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, as reported in the Certificate of Debt Limit of the State of Hawaii as of March 20, 1986, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is 13.18 per cent for the ten years from fiscal year 1986-87 to fiscal year 1995-96. For the purpose of this declaration, the assumption is made that ten per cent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of 14 per cent through June 30, 1987, and 9.5 per cent thereafter, the maximum allowable by law, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, and the bonds authorized by this Act, will not cause the debt limit to be exceeded at the time of each bond issuance:

Time of Issuance and Amount to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount and Year of Highest Principal and Interest
1st half FY 1986-87 \$72,000,000	\$262,041,360	\$223,729,061 (FY 1987-88)
2nd half FY 1986-87 \$72,000,000	\$262,041,360	\$233,809,061 (FY 1987-88)
1st half FY 1987-88 \$72,000,000	\$278,735,277	\$238,633,853 (FY 1988-89)
2nd half FY 1987-88 \$72,000,000	\$278,735,277	\$245,473,853 (FY 1988-89)

1st half FY 1988-89	\$293,401,367	\$248,818,139 (FY 1989-90)
	\$72,000,000	
2nd half FY 1988-89	\$293,401,367	\$255,658,139 (FY 1989-90)
	\$72,000,000	

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 6. The legislature finds the basis for the declaration of findings set forth in this Act are reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

SECTION 7. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in Section 3 and Section 4 of this Act designated to be financed from the general obligation bond fund; provided that the sum total of the general obligation bonds so issued shall not exceed \$2,104,000.

SECTION 8. SEVERABILITY. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the Legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 9. In the event manifest clerical, typographical or other mechanical errors are found in this Act, the Governor is hereby authorized to correct such errors. All changes pursuant to this section shall be reported to the Legislature at its next session.

SECTION 10. New statutory material is underscored.¹

SECTION 11. EFFECTIVE DATE. This Act shall take effect upon its approval.

(Approved April 14, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 21

H.B. NO. 2009-86

A Bill for an Act Relating to Employment Practices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 378-37, Hawaii Revised Statutes, is amended to read as follows:

“§378-37 [Petition for enforcement of order.] Enforcement of order; judgment rendered thereon. If [any] an employer fails or neglects to comply with the final order of the department of labor and industrial relations from which no appeal has been taken as provided by this part, the department or the employee affected may [petition] apply to the circuit court [wherein] of the judicial circuit in which the employer resides or transacts business for [the enforcement] a judgment to enforce the provisions of the final order and for any other appropriate relief. [Upon filing of the petition and the record of the proceedings, including all documents and papers on file in the matter, the pleadings and testimony upon which the order was entered, and the order, and upon service of proper notice thereof upon the employer, the circuit court shall have jurisdiction in the premises.] In any proceeding to enforce the provisions of the final order, the department or the employee affected need only file with the court proof that notice of the hearing was given, a certified copy of the final order, and proof that the final order was served. The judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though the judgment had been rendered in an action duly heard and determined by the court.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1986.)

ACT 22

H.B. NO. 2040-86

A Bill for an Act Relating to the Employment of Attorneys.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 103-3, Hawaii Revised Statutes, is amended to read as follows:

“103-3 Employment of attorneys. No department of the State other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the Hawaii housing authority or the public utilities commission;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund[;], the contractors license board in any action involving the contractors recovery fund, and the trustees in any action involving the travel agency recovery fund;
- (6) To the Hawaii criminal justice commission;
- (7) To grand jury counsel;
- (8) To the office of Hawaiian affairs;

ACT 23

- (9) To the department of commerce and consumer affairs; provided that such attorney shall be responsible for the prosecution of consumer complaints;
- (10) In the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines such representation or counsel, or approves such department's expenditures; provided that the governor thereupon waives the provision of this section.

For the purpose of this section the term "department of the State" means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed by the Hawaii criminal justice commission or as a grand jury counsel, or the department of commerce and consumer affairs in prosecution of consumer complaints, shall become a deputy attorney general."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1986.)

ACT 23

H.B. NO. 2050-86

A Bill for an Act Relating to Contractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 444-23, Hawaii Revised Statutes, is amended to read as follows:

"§444-23 Violation; penalties. (a) Any licensee who violates section 444-9.3 or 444-17(18) shall be fined \$500 for the first offense, [~~\$1000~~] \$1,000 for the second offense, and not less than [~~\$1500~~] \$1,500 or more than [~~\$2000~~] \$2,000 for any subsequent offense.

(b) Except as provided in subsection (a), any person who violates or fails to comply with any of the provisions of this chapter shall be fined not [~~more than \$5,000.~~] less than \$100 and not more than \$5,000 for each violation."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1986.)

ACT 24

H.B. NO. 2052-86

A Bill for an Act Relating to the Board of Registration of Professional Engineers, Architects, Surveyors, and Landscape Architects.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 464, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

"§464- Remedies or penalties cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to

each other and to the remedies or penalties available under all other laws of this State.

§464- Appeal to circuit court. An applicant who has been refused a license and every licensee whose license has been suspended, revoked, or not renewed may appeal the board's decision to the circuit court of the circuit in which the applicant or licensee resides in the manner provided in chapter 91."

SECTION 2. Section 464-10, Hawaii Revised Statutes, is amended to read as follows:

"§464-10 Suspension or revocation of certificates; fines; hearings. The board may revoke or suspend the certificate of registration of any person hereunder who is found guilty of any fraud or deceit in obtaining the certificate or of gross negligence, incompetency, or misconduct in the practice of [his] the profession or who is convicted of violating this chapter or the rules [or regulations] of the board. Any person may prefer charges in writing with the executive secretary of the board against any person holding a certificate.

In every case where it is proposed to revoke or suspend the certificate of registration, the board shall give the person concerned notice and hearing in conformity with chapter 91. The notice shall be given in writing by registered or certified mail with return receipt requested at least fifteen days before the hearing.

In all proceedings before it, the board and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence, and examining witnesses, as are possessed by circuit courts. In case of disobedience by any person of any order of the board, or of any member thereof, or of any subpoena issued by it, or by a member, or the refusal of any witness to testify to any matter regarding which [he] the person may be questioned lawfully, any circuit judge, on application by the board, or a member thereof, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein.

Any person who violates this chapter or the rules adopted pursuant thereto shall be fined not less than \$500 nor more than \$1,000 per violation and each day of violation or failure to comply shall constitute a separate offense."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved April 14, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 25

H.B. NO. 2053-86

A Bill for an Act Relating to Hearing Aid Dealers and Fitters.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 451A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§451A- Remedies or penalties cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 2. Section 451A-2, Hawaii Revised Statutes, is amended to read as follows:

"§451A-2 License required. It shall be unlawful for any person not licensed under this chapter to engage in the sale or practice of dealing and fitting of hearing aids or to use any sign, card, or device to indicate that the person is licensed and registered.

Any person wishing to obtain a license, or a permit or certificate of endorsement shall make application to the board and shall furnish to the board:

(a)(1) Satisfactory proof that the person is a graduate of a high school approved and recognized by the board[.]; and

(b)(2) Satisfactory proof that the person has fulfilled all of the requirements of the board.

An applicant shall be required to pass a written and practical examination.

[For a period of six months after July 1, 1970, an applicant shall be issued a license without examination; provided that the applicant has been principally engaged in the State as a hearing aid dealer and fitter for a total period of not less than two years within a period of five years immediately prior to July 1, 1970.]"

SECTION 3. Section 451A-3, Hawaii Revised Statutes, is amended to read as follows:

"[]§451A-3[] Appointment, qualifications, term. There is hereby established a board within the department of commerce and consumer affairs which shall consist of seven members who shall be appointed by the governor in a manner prescribed in section 26-34. Of the seven members, there shall be at least one hearing aid dealer and fitter, one otolaryngologist, and one audiologist. Each hearing aid dealer and fitter on the board shall have at least five years of experience and shall hold a valid license as a hearing aid dealer and fitter; provided that in the membership of the first board, the hearing aid dealers and fitters shall have, to qualify for appointment, at least five years of experience and possess all the qualifications provided in section 451A-2.

All members of the board shall be residents of the State. The board shall elect a chairman[,] and [secretary-treasurer] vice-chairman from the members of the board."

SECTION 4. Section 451A-13, Hawaii Revised Statutes, is amended to read as follows:

"§451A-13 [Grounds for disciplinary action.] Discipline; grounds; proceeding; hearings. (a) The board may deny, revoke, or suspend any license, certificate of endorsement, or temporary permit issued under this chapter and fine or otherwise discipline a licensee upon proof that [a] the person has:

- (1) Obtained a license, certificate of endorsement or temporary permit by fraud or deceit;
- (2) Obtained a fee or the making of a sale by fraud or misrepresentation;
- (3) Employed with knowledge, directly or indirectly, any suspended or unregistered person to perform any work covered by this chapter;

- (4) Applied, caused, or promoted for advertising, the use of any matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation which is misleading, deceptive, or untruthful;
- (5) Advertised a particular model or type of hearing aid for sale which in fact is not immediately available and where it is established that the purpose was to obtain prospects for the sale of a different model or type;
- (6) Represented that the service or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true, or used the words "doctor", "clinic", or similar words, abbreviations, or symbols related to the medical profession when it is not accurate;
- (7) Permitted the use of a license by another;
- (8) Advertised a product or used a manufacturer's name or trademark which implies a relationship which in fact does not exist;
- (9) Given or offered to give, directly or indirectly, money or anything of value to any person who advises another in a professional capacity as an inducement to influence him or have him influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dealer or fitter, or influencing persons to refrain from dealing in the products of competitors;
- (10) Engaged in the fitting and selling of hearing aids under a false name or alias with fraudulent intent;
- (11) Sold a hearing aid to a person who has not been given tests utilizing appropriate established procedures and instrumentation in fitting of hearing aids;
- (12) Committed gross incompetence or negligence in fitting and selling hearing aids;
- (13) Violated any provisions of this chapter and any rules [and regulations.];
- (14) Submitted to or filed with the board any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement of fact; or
- (15) Failed to report to the board any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final.

(b) Any person who wishes to make a complaint against a person who has a license, certificate of endorsement, or temporary permit shall file a complaint in writing with the board within one year from the date of the action upon which the complaint is based.

(c) In any proceedings to impose disciplinary sanctions against a licensee, the board shall give the person concerned notice and an opportunity for hearing in conformity with chapter 91. Appeals from the final order of the board shall be made pursuant to chapter 91.

(d) Any revocation or suspension of a license imposed by the board shall be in accordance with section 92-17(c).

(e) Any fine imposed by the board after a hearing in accordance with chapter 91 shall be no less than \$100 and no more than \$1,000 for each violation."

SECTION 5. Section 451A-15, Hawaii Revised Statutes, is repealed.

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SECTION 6. Section 451A-16, Hawaii Revised Statutes, is repealed.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 8. This Act shall take effect upon its approval.

(Approved April 14, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 26

H.B. NO. 2113-86

A Bill for an Act Relating to Dentistry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 448, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§448- Filing of false information; revocation of license. The board of dental examiners shall refuse to grant a license to any applicant or shall revoke the license of any person who knowingly records, registers, or files, or offers for recordation, registration, or filing with the department of commerce and consumer affairs, any written statement which has been falsely made, completed, or altered, or in which a false entry has been made, or which contains a false statement or false information.”

SECTION 2. Chapter 448, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§448- Remedies or penalties cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.”

SECTION 3. Section 448-17, Hawaii Revised Statutes, is amended to read as follows:

“§448-17 Refusal, revocation, suspension, and [restoration of licenses.] administrative penalties. (a) The board of dental examiners shall refuse to issue a license to any applicant who fails to meet all of the requirements imposed by this chapter and may refuse to issue [one] a license to any applicant who has previously [done] committed any act which would, if [done] committed by a licensee, [authorize] result in the revocation or suspension of [his] the license.

The board may suspend or revoke any license issued under this chapter and may fine a licensee for any of the following reasons:

- (1) Fraud in procuring license;
- (2) Habitual intoxication or addiction to the use of drugs;
- (3) Wilful or repeated violations of the rules of the department of health;
- (4) Acceptance of a fee for service as a witness, without the knowledge of the court, in addition to the fee allowed by the court;
- (5) Division of fees or agreeing to split or divide the fees received for dental services with any person for bringing or referring a patient;

- (6) Assisting in the care or treatment of a patient, without the knowledge of the patient or [his] the patient's legal representative;
- (7) Employing, procuring, inducing, aiding, or abetting a person not licensed or registered as a dentist to engage in the practice of dentistry;
- (8) Making any misrepresentations or false promises, directly or indirectly, to influence, persuade, or induce dental patronage;
- (9) Professional connection or association with¹ or lending [his] one's name to another for, the illegal practice of dentistry by another, or professional connection or association with any person, firm, or corporation holding [himself,] oneself, themselves, or itself out in any manner contrary to this chapter;
- (10) By false or fraudulent representations, obtaining or seeking to obtain practice or money or any other thing of value;
- (11) Practicing, either in the State or elsewhere, under a name other than [his] one's own;
- (12) Any other improper, unprofessional, or dishonorable conduct in the practice of dentistry;
- (13) Violation of section 447-4.

[The board may restore any license revoked under this section whenever it determines that such restoration will not endanger the public health and safety or the reputation of the profession.]

(b) Any person who violates, or fails to comply with, any of the provisions of this chapter, the penalty for which is not otherwise provided, shall be fined not less than \$1,000 nor more than \$5,000."

SECTION 4. Section 448-21, Hawaii Revised Statutes, is amended to read as follows:

"§448-21 [Violating provisions;] Criminal penalties. Any person who violates, or fails to comply with, any of the provisions of this chapter, where a criminal penalty [for which] is not otherwise provided, shall be fined not more than \$500 or imprisoned not more than six months, and each day's violation or failure to comply with the provisions hereof shall be deemed a separate offense.

Upon any subsequent conviction under this section, the person shall be fined not more than \$1,000 and imprisoned not more than one year.

All tools, implements, medicines, and drugs used by any person in the practice of dentistry without a license, shall be seized by the officers of the law, and upon conviction of [such] the person [of] for any violation of this chapter, [such] the tools, implements, medicines, and drugs shall be declared forfeited to the State by the court and ordered destroyed."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 6. This Act shall take effect upon its approval.

(Approved April 14, 1986.)

Notes

1. Prior to amendment a "," appeared here.
2. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Nursing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 457-12, Hawaii Revised Statutes, is amended to read as follows:

"§457-12 Discipline; grounds; proceedings; hearings. (a) The board shall have the power to deny, revoke, limit, or suspend any license to practice nursing as a registered nurse or as a licensed practical nurse [issued by the board or] applied for or issued by the board in accordance with this chapter, and to fine or to otherwise [to] discipline a licensee [upon proof that the person:] for any of the following causes:

- (1) [Is guilty of fraud] Fraud or deceit in procuring or attempting to procure a license to practice nursing as a registered nurse or as a licensed practical nurse; [or]
- (2) [Is guilty of gross] Gross immorality; [or]
- (3) [Is unfit or incompetent] Unfitness or incompetence by reason of negligence, habits, or other causes; [or]
- (4) [Is habitually intemperate or is addicted to the use of] Habitual intemperance, addiction to, or dependency on alcohol or other habit-forming [drugs; or] substances;
- (5) [Is mentally incompetent; or] Mental incompetence;
- (6) [Is guilty of unprofessional] Unprofessional conduct; [or] as defined by the board in accordance with its own rules;
- (7) [Has willfully or repeatedly violated] Wilful or repeated violation of any of the provisions of this chapter[.] or any rule adopted by the board;
- (8) Revocation, suspension, limitation, or other disciplinary action by another state of a nursing license for reasons as provided in this section;
- (9) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a nurse, notwithstanding any statutory provision to the contrary;
- (10) Failure to report to the board any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final;
- (11) Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement of fact; or
- (12) Violation of the conditions or limitations upon which any license is issued.

(b) [Upon filing of a sworn or affirmed complaint with the board charging a person with having been guilty of any of the actions specified as a ground for disciplinary action, the executive secretary of the board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing to be served on the accused at least ten days prior thereto. When personal service cannot be effected and the fact is certified on oath or affirmation by any person authorized to make legal service, the executive secretary of the board shall cause to be published, twice in each of two successive weeks, a notice of the hearings in a newspaper published in the county in which the accused last practiced according to the records of the

board and shall mail a copy of the charges and of the notice to the accused at the accused's last known address.] In any proceeding to discipline a licensee or for the suspension, limitation, or revocation of a license to practice nursing, the licensee sought to be disciplined or the person whose license is sought to be suspended, limited, or revoked shall be given notice and opportunity for hearing in conformity with chapter 91. Any person whose application for a license has been denied shall be given notice and the opportunity for a hearing pursuant to chapter 91.

(c) [When publication of the notice is necessary, the date of the hearing shall not be less than ten days after the last date of the notice. The attendance of witnesses and the production of books, papers, and documents at the hearing may be compelled by subpoenas issued by the board, which shall be served in the same manner as subpoenas of circuit courts. At the hearing the board shall administer oaths as may be necessary for the proper conduct of the hearing. The board shall not be bound by strict rules of procedure or by the laws of evidence in the conduct of its proceedings, but the determination shall be based upon sufficient legal evidence to sustain it. At the hearing the accused shall have the right to appear either personally or by counsel, or both, in the accused's own behalf, to cross-examine witnesses, and to have subpoenas issued by the board. If the accused is found guilty of the charges, the board may refuse to issue a license to the applicant or may revoke, suspend a license or otherwise discipline a licensee. A revoked or suspended license may be reissued after one year in the discretion of the board.] Any fine imposed by the board after a hearing in accordance with chapter 91 shall be no less than \$100 and no more than \$1,000 for each violation.

(d) The remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1986.)

ACT 28

H.B. NO. 2516-86

A Bill for an Act Relating to Mortgages.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 506-1, Hawaii Revised Statutes, is amended to read as follows:

"§506-1 Lien of mortgages of real property or fixtures; debts secured; priority. (a) Every transfer of an interest in real property or fixtures made as security for the performance of another act or subject to defeasance upon the payment of an obligation, whether the transfer is made in trust or otherwise, is to be deemed a mortgage and shall create a lien only as security for the obligation and shall not be deemed to pass title.

(b) A mortgage may secure the repayment of past debt, a debt incurred at the time the mortgage is executed, or a debt incurred for advances which may be made by the mortgagee subsequent to the execution of the mortgage even though the mortgagee is under no contractual duty to make such advances.

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Except as otherwise provided in section 490:9-313 of the Uniform Commercial Code with respect to security interests in fixtures, [in any case where the mortgagee is under no such contractual duty, the mortgage lien, to the extent that it] a mortgage which secures future advances[,] shall, up to but not exceeding the maximum amount of future advances stated in the mortgage, be superior to any subsequently recorded mortgage, [or any other] lien[,] or other encumbrances or conveyance, other than liens for taxes and for public improvements, [duly recorded subsequent to the time at which the advance has been made, but in the event the mortgagee is under a contractual duty to make future advances and the maximum amount of the future advances is stated in the mortgage, the lien therefor shall be superior to that of any subsequently recorded mortgage or other lien, except liens for taxes and for public improvements,] even though [the] such subsequently recorded mortgage, [or other] lien[, except liens for taxes and for public improvements,] or other encumbrance or conveyance is recorded prior to the date upon which any advance or advances have been made."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1986.)

ACT 29

H.B. NO. 1716-86

A Bill for an Act Relating to Ball or Marble Machines.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Sections 445-41 to 445-43, Hawaii Revised Statutes, are repealed.

SECTION 2. Statutory material to be repealed is bracketed.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 30

H.B. NO. 2836-86

A Bill for an Act Relating to the Environment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 342-32, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other power or duty prescribed by law and in this part, the director shall prevent, control, and abate water pollution in the State. In the discharge of this duty, the director may:

- (1) Establish by rule water quality standards, effluent standards, treatment and pretreatment standards, and standards of perfor-

- mance for specific areas and types of discharges in the control of water pollution, thereby allowing for varying local conditions;
- (2) Appoint a master or masters to conduct investigations and hearings;
 - (3) Consult with and advise any person engaged or intending to be engaged in any business or undertaking whose waste, sewage, or drainage is polluting or may tend to pollute state waters;
 - (4) Conduct and supervise research programs for the purpose of determining the causes, effects, and hazards of water pollution, the purity and potability of water and the means to monitor the quality of water, or to effect the proper disposal of sewage, drainage, and waste;
 - (5) Conduct and supervise state educational and training programs on water pollution prevention, control, and abatement, including the preparation and distribution of information relating to water pollution;
 - (6) Consult and advise persons intending to alter or to extend any system of drainage, sewage, or water supply;
 - (7) Require complete and detailed plans or reports, on existing works, systems, or plants, and of any proposed addition to, modification of or alteration of any such works, system, or plant which contain the information requested by the director in the form prescribed by him; which plans or reports shall be made by a competent person acceptable to the director and at the expense of such applicant or owner;
 - (8) With the approval of the governor, cooperate with, and receive money from the federal government, or any political subdivision of the State or from private sources for the study and control of water pollution;
 - (9) Receive or initiate complaints of water pollution, hold hearings in connection with water pollution, and institute legal proceedings in the name of the State for the prevention, control, or abatement of water pollution;
 - (10) Require the owner or operator of any effluent source or any discharger of effluent to (A) establish and maintain records; (B) make reports; (C) install, use, and maintain monitoring equipment or methods; (D) sample effluent and state waters; and (E) provide such other information as the department may require;
 - (11) Require any person, operator or holder of a variance or person subject to pretreatment requirements to permit the director or his authorized representative upon the presentation of his credentials:
 - (A) To enter the premises of the person, operator or variance holder or premises of a person subject to pretreatment requirements in which an effluent source is located or in which any records are required to be kept under the terms and conditions of the permit or variance or pretreatment requirements;
 - (B) To inspect any monitoring equipment or method required in the plans, specifications or variance or by pretreatment requirements; and
 - (C) To sample any discharge of pollutants or effluent; [and]
 - (12) Publish an annual report on the quality of the state waters, which annual reports shall include, but not be limited to:

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- (A) A description of sampling programs and quality control methods procedures;
 - (B) Statistical analysis and interpretation of the data on an annual basis by specific points (monitoring stations);
 - (C) Discussion of the results of these analyses to the extent that the implications can be understood by the general public;
 - (D) Recommendations for the modification of the water quality monitoring program to enhance its effectiveness for maintaining high standards of water quality in the State; and
 - (E) A note of any significant changes in the quality of state waters[.]; and
- (13) Act as a certifying agency, as defined in 40 C.F.R. 121.1(e) (1985)."

SECTION 2. Statutory material to be deleted is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1986.)

ACT 31

H.B. NO. 1830-86

A Bill for an Act Relating to Abandoned Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 290-12, Hawaii Revised Statutes, is amended to read as follows:

"§290-12 Leaving abandoned or derelict vehicles; petty misdemeanor. [Whoever leaves] The registered owner of an abandoned vehicle, as defined in section 290-1, or a derelict vehicle, as defined in section 290-8, found on any roadway, alley, street, way, lane, trail, bridge, or highway or other public property, or on private property without authorization of the owner or occupant, shall be guilty of a petty misdemeanor, provided that the registered owner shall not be guilty if the abandoned or derelict vehicle has been stolen or taken from the registered owner without permission or authorization."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 15, 1986.)

ACT 32

H.B. NO. 2008-86

A Bill for an Act Relating to Employment Security.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 383-1, Hawaii Revised Statutes, is amended by amending the definition of "base period" to read as follows:

- "(1) "Base period," with respect to benefit years beginning after June 30, 1951, means the four completed calendar quarters immediately preceding the first day of an individual's benefit year. With respect

to benefit years beginning on and after October 1, 1989, the base period means the first four of the last five completed calendar quarters preceding the first day of an individual's benefit year."

SECTION 2. Section 383-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) An unemployed individual shall be eligible to receive benefits with respect to any week only if the department of labor and industrial relations finds that:

- (1) Claim. He has made a claim for benefits with respect to such week in accordance with such [regulations] rules as the department may prescribe.
- (2) Registration. He has registered for work at, and thereafter continued to report at, an employment office in accordance with such [regulations] rules as the department may prescribe, except that the department may, by [regulation] rule, waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this chapter; provided that no such [regulation] rule shall conflict with section 383-21.
- (3) Availability. He is able to work and is available for work; provided that no claimant shall be considered ineligible with respect to any week of unemployment for failure to comply with this paragraph if such failure is due to an illness or disability, as evidenced by a physician's certificate, which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work which would have been suitable prior to the beginning of such illness and disability has been offered the claimant.
- (4) Waiting period. He has been unemployed for a waiting period of one week within his benefit year. No week shall be counted as a waiting period:
 - (A) If benefits have been paid with respect thereto;
 - (B) Unless the individual was eligible for benefits with respect thereto as provided in this section and section 383-30, except for the requirements of this paragraph.
- (5) Wages for insured work; weeks of employment.
 - (A) In the case of an individual who has established a benefit year prior to January 3, 1965, he has been paid wages for insured work during his base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which, in column B of the schedule, appears his weekly benefit amount.
 - (B) In the case of an individual who has established a benefit year after January 2, 1965, but prior to January 2, 1966, he has had during his base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which in column B of the schedule, appears his weekly benefit amount.

- (C) In the case of an individual whose benefit year begins on or after January 2, 1966, but prior to October 1, 1989, he has had during his base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least thirty times his weekly benefit amount as determined under section 383-22(b). For the purposes of this subparagraph, wages for insured work shall include wages paid for services:
- (i) Which were not employment, as defined in section 383-2 or pursuant to an election under section 383-77 prior to January 1, 1978, at any time during the one-year period ending December 31, 1975; and
 - (ii) Which are agricultural labor as defined in section 383-9 except such service excluded under section 383-7(1), or are domestic service except such service excluded under section 383-7(2); except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.
- (D) In the case of an individual whose benefit year begins on and after October 1, 1989, the individual has been employed as defined in section 383-2 and has been paid wages for such insured work during the individual's base period in an amount equal to not less than thirty times the individual's weekly benefit amount, as determined under section 383-22(b), and the individual has been paid wages for insured work during at least two quarters of the individual's base period.
- [(D)] (E) For the purposes of this paragraph, wages and weeks of employment shall be counted for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the dates on which the employing unit by which such wages or other remuneration as provided in section 383-1(19) were paid has satisfied the conditions of section 383-1(9) with respect to becoming an employer."

SECTION 3. Section 383-30, Hawaii Revised Statutes, is amended to read as follows:

"§383-30 Disqualification for benefits. An individual shall be disqualified for benefits:

- (1) Voluntary separation. For any week prior to October 1, 1989, in which he has left his work voluntarily without good cause, and continuing until he has, subsequent to the week in which the voluntary separation occurred, been employed for at least five consecutive weeks of employment. For the purposes of this paragraph, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter. For any week beginning on and after October 1, 1989, in which the individual has left the individual's work voluntarily without good cause, and continuing until he has, subsequent to the week in which the voluntary separation occurred, been paid wages

in covered employment equal to not less than five times the individual's weekly benefit amount as determined under section 383-22(b).

- (2) Discharge or suspension for misconduct. For [the week] any week prior to October 1, 1989, in which he has been discharged for misconduct connected with his work, and continuing until he has, subsequent to the week in which the discharge occurred, been employed for at least five consecutive weeks of employment. For the week in which he has been suspended for misconduct connected with his work and for not less than one or more than four consecutive weeks of unemployment which immediately follow such week, as determined in each case in accordance with the seriousness of the misconduct. For the purposes of this paragraph, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter. For any week beginning on and after October 1, 1989, in which the individual has been discharged for misconduct connected with work, and until the individual has, subsequent to the week in which the discharge occurred, been paid wages in covered employment equal to not less than five times the individual's weekly benefit amount as determined under section 383-22(b).
- (3) Failure to apply for work, etc. For [the week] any week prior to October 1, 1989, in which he failed, without good cause, either to apply for available, suitable work when so directed by the employment office or any duly authorized representative of the department of labor and industrial relations, or to accept suitable work when offered him and continuing until he has, subsequent to the week in which the failure occurred, been employed for at least five consecutive weeks of employment. For the purposes of this paragraph, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter. For any week beginning on and after October 1, 1989, in which the individual failed, without good cause, either to apply for available, suitable work when so directed by the employment office or any duly authorized representative of the department of labor and industrial relations, or to accept suitable work when offered until the individual has, subsequent to the week in which the failure occurred, been paid wages in covered employment equal to not less than five times the individual's weekly benefit amount as determined under section 383-22(b).
 - (A) In determining whether or not any work is suitable for an individual there shall be considered among other factors and in addition to those enumerated in paragraph (3)(B) [of this section], the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, the length of his unemployment, his prospects for obtaining work in his customary occupation, the distance of available work from his residence and prospects for obtaining local work. The same factors so far as applicable

shall be considered in determining the existence of good cause for an individual's voluntarily leaving his work under paragraph (1) [of this section].

- (B) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:
 - (i) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
 - (ii) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
 - (iii) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.
- (4) Labor dispute. For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed; provided that this paragraph shall not apply if it is shown that:
 - (A) He is not participating in or directly interested in the labor dispute which caused the stoppage of work; and
 - (B) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute; provided that, if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purpose of this paragraph, be deemed to be a separate factory, establishment, or other premises.
- (5) If the department finds that he has within the twenty-four calendar months immediately preceding any week of his unemployment made a false statement or representation of a material fact knowing it to be false or knowingly failed to disclose a material fact to obtain any benefits not due under this chapter, he shall be disqualified for benefits beginning with the week in which the department makes the determination and for each consecutive week during the current and subsequent twenty-four calendar months immediately following such determination, and such individual shall not be entitled to any benefit under this chapter for the duration of such period; provided[,] that no disqualification shall be imposed if proceedings have been undertaken against the individual under section 383-141.
- (6) Other unemployment benefits. For any week or part of a week with respect to which he has received or is seeking unemployment benefits under any other employment security law, but this paragraph shall not apply (A) if the appropriate agency finally determines that he is not entitled to benefits under such other law, or (B) if benefits are payable to him under an act of Congress which has as its purpose the supplementation of unemployment benefits under a state law.

[(7) Deleted.]”

SECTION 4. Section 383-70, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Each employer shall make at the time and in the manner prescribed by the department a full, true, and correct report with respect to the wages paid by him, which report shall contain other information as may be prescribed by the department. For each calendar quarter beginning July 1, 1988, such report shall include wage information for each employee in accordance with such rules as the department may prescribe. The report shall be made by the employer even though he is not required to pay contributions.”

SECTION 5. Section 383-94, Hawaii Revised Statutes, is amended to read as follows:

“§383-94 Records and reports. (a) Each employing unit shall keep true and accurate work records, for such periods of time and containing such information as the department of labor and industrial relations may prescribe. The records shall be open to inspection and be subject to being copied by the authorized representatives of the department at any reasonable time and as often as may be necessary. Any authorized representative of the department, or the referee, may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which such authorized representative, or the referee, deems necessary for the effective administration of this chapter.

(b) Each employer shall report all new employees hired subject to procedures prescribed by the department, within five working days after the first day of employment of such individual. [Each employer shall report separation of any employee and the wages paid to such employee within five working days after the last day of employment.] If any employer fails to report with respect to a newly hired employee within five working days after the first day of employment, the employer shall pay a penalty in the amount of \$10.

(c) Prior to July 1, 1988, each employer shall report separation of any employee and the wages paid to such employee within five working days after the last day of employment, in the manner prescribed by the department. If any employer fails to report with respect to [a newly hired employee within five working days after the first day of employment, or] the separation of an individual or the remuneration which he paid to the individual within five working days after termination of the individual or after mailing of notice from the department [by registered or certified mail] so to do, he shall pay a penalty in the amount of \$10. [The penalty shall be assessed, collected, and paid into the fund in the same manner as contributions. The director may, in a case of excusable failure to file the report within the required time, remit the penalty.] Beginning on and after July 1, 1988, each employer shall report the separation of any employee or the wages paid to such employee, or both, upon request of the department within five calendar days from the date that such request was mailed to the employer. If any employer fails to report with respect to the separation of an individual, or the remuneration which the employer paid to the individual, or both, within five calendar days after mailing of notice from the department, the employer shall pay a penalty in the amount of \$10.

(d) For each calendar quarter beginning July 1, 1988, each employer or employing unit as defined in section 383-1 shall furnish the department with wage information for each employee in accordance with such rules as the department of labor and industrial relations may prescribe. Such quarterly wage report shall be filed with the department on or before the last day of the month

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succeeding the last month of each quarter. Any employer who fails to file a report of wages paid to each of the employer's employees for any period in the manner and within the time prescribed by this chapter and the rules of the department, or any employer who the department finds has filed an insufficient report shall pay a penalty in the amount of \$30.

(e) Penalties shall be assessed, collected, and paid into the fund in the same manner as contributions. The director, in a case of excusable failure to file any report under this section within the required time, may remit the penalty."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved April 15, 1986.)

ACT 33

H.B. NO. 2128-86

A Bill for an Act Relating to Aircraft Servicing Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-26, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) This section shall not apply to:

- (1) [any] Any motor vehicle which is covered by part XI of this chapter, governing safety of motor carrier vehicle operation and equipment; provided the rules adopted pursuant to part IA, impose standards of inspection at least as strict as those imposed under subsection (f), and that certification is required at least as often as provided in subsections (a), (b), (c), and (d)[.]; and
- (2) Aircraft servicing vehicles which are being used exclusively on lands set aside to the department of transportation for airport purposes."

SECTION 2. Section 286-41, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The provisions of this part requiring the registration of motor vehicles shall not apply to:

- (1) [special] Special mobile equipment [nor to implements];
- (2) Implements of husbandry temporarily drawn, moved, or otherwise propelled upon the public highways[.]; and
- (3) Aircraft servicing vehicles which are being used exclusively on lands set aside to the department of transportation for airport purposes."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 15, 1986.)

ACT 34

H.B. NO. 2360-86

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 607-5, Hawaii Revised Statutes, is amended to read as follows:

“§607-5 Costs, circuit courts. The fees prescribed by the below schedule shall be paid to the clerk of the circuit court as costs of court by the person instituting the action or proceeding, or offering the paper for filing, or causing the document to be issued or the services to be performed in the circuit court; provided that nothing in the schedule shall apply to cases of adults charged with commission of a crime, or to proceedings under section 571-11(1) or (2), or to proceedings under chapter 333 or 334, or to small estates (including decedents’ estates and protection of property of minors and persons under disability) when the amount payable is fixed by another statute.

For the purpose of this section, “judgment” includes a decree and any order from which an appeal lies.

SCHEDULE

In the application of this schedule, each case assigned a new number or filed under the number previously assigned to a probate, trust, guardianship, or conservatorship, shall carry a fee for the institution or transfer of the action or proceeding as prescribed by part I, and in addition the fees prescribed by parts II and III unless otherwise provided.

PART I

Action or proceeding, general:

- (1) Civil action or special proceeding, unless another item in this part I applies \$30
- (2) Appeal to a circuit court \$30
- (3) Transfer of action to circuit court from district court, in addition to district court fees \$20

Trusts:

- (4) Proceeding for (A) appointment of trustee; (B) appointment of successor; (C) resignation of trustee; (D) instructions; (E) approval of investment; (F) approval of sale, mortgage, lease, or other disposition of property; (G) approval of compromise of claim, for each such matter \$15
- (5) Proceeding for (A) removal of trustee; (B) order requiring accounting; (C) invalidation of action taken by trustee; (D) termination of trust, for each such matter \$15
- (6) Accounting, this fee to be paid for each account filed and to include the settlement of the account \$10
- (7) Vesting order no charge under part I
- (8) Allowance of fees of trustees, attorneys, or other fees for services incurred in a proceeding for which a fee has been paid under this section no charge under part I
- (8a) Registration of a trust, or release of registration, under chapter 560 \$3
- (9) Any other proceeding relating to a trust \$15

Guardianship of estate or conservatorship:

- (10) Proceeding for (A) appointment; (B) appointment of successor; (C) resignation; (D) instructions, unless included in one of the foregoing proceedings; (E), (F), (G) approval of any matter listed in (E), (F), or (G) of item (4) in relation to a trust, for each such matter \$15

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- (11) Proceeding of the nature listed in (A), (B), (C), or (D) of item (5) in relation to a trust, for each such matter \$15
- (12) Accounting, same as provided by item (6) in relation to a trust \$10
- (13) Any other proceeding relating to guardianship of an estate, or a conservatorship no charge under part I

Probate (decedents' estates). These fees include all matters of the nature listed in items (4) to (9), without additional charge:

- (14) Application for appointment of special administrator by order of the court, in addition to fee prescribed by item (15)..... \$10
- (15) Probate, administration, or ancillary administration, this fee to be paid once only for each decedent's estate..... \$30
- (15a) Informal probate or appointment proceeding under chapter 560, this fee to be paid instead of the fee prescribed by item (15)..... \$10
- (15b) Application under chapter 560 for formal testacy proceedings, or for supervised administration, this fee to be paid once only for each decedent's estate as an addition to the fee prescribed by item (15a) \$20

Family court cases:

- (16) Matrimonial action (annulment, divorce, separation, or separate maintenance) \$30
- (17) Adoption \$15
- (18) Guardianship of the person, including all matters of the nature listed in items (4) to (9) \$15
- (19) Termination of parental rights no charge under part I
- (20) Any other family court proceeding, including without limitation custody proceedings even if in the form of an habeas corpus proceeding \$15

PART II

The fees prescribed by this part do not apply to decedents' estates, guardianships, or conservatorships.

Intervention; affirmative relief:

- (21) Intervention \$15
- (22) Answer containing one or more cross-claims, cross-complaints, or counterclaims \$15
- (23) Third-party complaint \$15

Motions:

- (24) Motion or other application for: (A) preliminary injunction including temporary restraining order; (B) change of venue; (C) involuntary dismissal, or preliminary hearing of a defense which may lead to involuntary dismissal; (D) judgment on the pleadings; (E) summary judgment; (F) new trial; (G) vacating, altering, or amending judgment, for each such matter, provided that an application in the alternative shall be treated as one matter \$15

Writs; garnishee summons. For the issuance of the following:

- (25) Garnishee summons \$10
- (26) Writ of possession, attachment, or execution \$10
- (27) Temporary restraining order or other injunction no charge except for the motion
- (28) Any other writ \$10

PART III

The fees prescribed by this part apply without exception.

Jury trial:

- (29) Demand for jury trial, including without limitation probate cases, appeals to the circuit court, and cases transferred to the circuit court from the district court, this fee to be paid to the court in which the demand is filed by the party first making the demand \$50
- (30) Remand to district court in cases transferred to circuit court from district court on demand for jury trial, where jury trial is waived and a remand of such cases to district court is allowed \$50

Subpoena:

- [(30)] (31) Issuance of a subpoena, for each witness to be served \$3

Deposition; examination:

- [(31)] (32) Deposition upon oral examination or written questions, or physical or mental examination, or examination of judgment debtor or other person under section 636-4, to be paid by the party filing the first paper in the matter, for each person whom the party seeks to question or examine \$10

Miscellaneous:

- [(32)] (33) Filing of notice of appeal to supreme court, to be paid in addition to the deposit of supreme court costs \$30
- [(33)] (34) Search of records by the clerk \$2
- [(34)] (35) Making of copy; comparing of copy with original; certification or authentication of notaries Fees prescribed by section 92-21
- [(35)] (36) Certification under seal of copy of pleading or other paper subsequent to the initial filing of the pleading or paper, except record on appeal \$1
- [(36)] (37) Exemplification, instead of item [(35)] (36) \$2
- [(37)] (38) Filing of copy of notice of completion of contract, with affidavit of publication \$3
- [(38)] (39) Filing of initial paper under section 507-43 by person asserting mechanic's or materialman's lien (this fee to be additional to the fee prescribed by part I for bringing an action under section 507-47).... \$15
- [(39)] (40) Filing of any other paper not in a pending proceeding \$3
- [(40)] (41) Printing, publishing, or posting notice; service fees; garnishee fees; mileage charges; or other services actually performed Amounts necessary to cover actual costs or disbursements."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 15, 1986.)

ACT 35

H.B. NO. 1904-86

A Bill for an Act Relating to Cemeteries and Mortuaries.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 441-19, Hawaii Revised Statutes, is amended to read as follows:

"§441-19 Powers and duties of director. In addition to any other duties and powers granted by this chapter the director shall, pursuant to chapter 91:

- (1) Grant licenses to cemetery and pre-need funeral authorities pursuant to this chapter[;] and rules adopted pursuant thereto;
- (2) [Make,] Adopt, amend, or repeal [such] rules as the director deems proper to fully effectuate this chapter and carry out the purpose thereof, which purpose is the protection of the general public in its acquisitions of cemetery property, pre-need interment services, at-need funeral services, and pre-need funeral services. The rules may forbid acts or practices deemed by the director to be detrimental to the accomplishment of the purpose of this chapter, and the rules may require mortuary, cemetery, and pre-need funeral authorities to make reports to the director containing such information as will better enable the director to enforce this chapter and the rules, or as will better enable the director from time to time to amend the rules to more fully effectuate the purpose of this chapter, and further, the rules may require mortuary, cemetery, and pre-need funeral authorities to furnish reports to their clients containing such matters of information as the director deems necessary to promote the purpose of this chapter; provided that this enumeration of specific matters which may properly be made the subject of rules shall not be construed to limit the director's broad general power to make all rules necessary to fully effectuate the purpose of this chapter;
- (3) Enforce this chapter and rules adopted pursuant thereto;
- (4) Fine, suspend, or revoke any license for any cause prescribed by this chapter, or for any violation of the rules, and refuse to grant any license for any cause which would be ground for revocation or suspension of a license;
- (5) Report to the governor annually and at such other times and in such other manner as he may require concerning the director's activities;
- (6) Publish and distribute pamphlets and circulars containing such information as the director deems proper to further the accomplishments of the purpose of this chapter;
- (7) Investigate the actions of any person acting in the capacity of a licensee under this chapter if there is reason to believe that there may be a violation of this chapter or the rules adopted pursuant thereto[.];
- (8) Extend the deadline for, or defer the filing of, any periodic report required under this chapter, provided that the licensee meets the conditions and requirements set forth by the director in rules; and
- (9) Provide in the rules for alternatives to any bonding or insurance requirement imposed by this chapter when such bond or insurance cannot be reasonably secured and the alternative measures provide for the same degree of protection to the consumer."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 16, 1986.)

ACT 36

H.B. NO. 1977-86

A Bill for an Act Relating to Rules Governing the Inspection, Quarantine, Disinfection, or Destruction of Animals.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-2, Hawaii Revised Statutes, is amended to read as follows:

“§142-2 Rules [and regulations]. Subject to chapter 91 the department of agriculture may make and amend rules [and regulations,] for the inspection, quarantine, disinfection, or destruction, either upon introduction into the State[,] or at any time or place within the State, of animals and the premises and effects used in connection with [such] the animals. Included therein may be rules [and regulations] governing the control and eradication of transmissible diseases of animals[, and rules and regulations governing] and the transportation of animals between the different islands of the State and along the highways thereof, [and also rules and regulations] as well as rules requiring the [owners] owner [and masters] or captain of any [boat or] vessel or aircraft [calling at any port in the State and engaged in transportation of livestock,] arriving in the State with animals aboard and the managers [and] or agents of [railway and] trucking and air and water transportation companies carrying [livestock] animals within the State[,] to [make reports of] report on the number and class of [livestock] animals carried, names of owners and consignees, the places to and from which the [livestock is] animals are shipped, the manner of handling the [livestock,] animals, the number of deaths or injuries to [livestock] animals occurring in transit or while being loaded or unloaded[,] together with the causes of the deaths or injuries, and all other matters which may be deemed necessary by the department for a full and complete record of the shipping and handling of [livestock.] animals. The department may also prohibit the importation into the State from any foreign country[,] or other parts of the United States[,] or the movement from one island within the State to another island therein[,] or to one locality from another locality on the same island, of animals known to be or suspected of being infected with a contagious, infectious, or communicable disease or known to have been exposed to any [such disease.] of those diseases.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 16, 1986.)

ACT 37

H.B. NO. 1996-86

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 321-11, Hawaii Revised Statutes, is amended to read as follows:

“§321-11 Subjects of health regulations, generally. The department of health may make such regulations as it deems necessary for the public health and safety respecting:

- (1) Nuisances, foul or noxious odors, gases, vapors, waters in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease, within the respective districts of the State, and on board any vessel;
- (2) Adulteration and misbranding of food or drugs;
- (3) Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, watercourses, areas, and alleys;
- (4) Privy vaults and cesspools;
- (5) Fish and fishing;
- (6) Interments and dead bodies;
- (7) Disinterments of dead human bodies, including the exposing, disturbing, or removing of such bodies from their place of burial, or the opening, removing, or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
- (8) Cemeteries and burying grounds;
- (9) Laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where foods or beverages are canned or bottled for public consumption or sale; provided that nothing in this chapter shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where the laundering or sterilization is done in an efficient and sanitary manner;
- (10) [[Text of paragraph effective July 1, 1986.]] Hospitals, freestanding surgical outpatient facilities, skilled nursing facilities, intermediate care facilities, adult residential care homes, special treatment facilities and programs, home health agencies, freestanding birthing facilities, adult day health centers, but excluding youth shelter facilities unless clinical treatment of mental, emotional, or physical disease or handicap is a part of the routine program or constitutes the main purpose of the facility, as defined in section 346-16 under "child care institution";
- (11) Hotels, rooming houses, lodging houses, apartment houses, tenements, and residences for persons with developmental disabilities including, but not limited to, those built under federal funding;
- (12) Laboratories;
- (13) Any place or building where noisome or noxious trades or manufactures are carried on, or intended to be carried on;
- (14) Milk;
- (15) Poisons and hazardous substances, the latter term including, but not limited to, any substance or mixture of substances which (A) is corrosive, (B) is an irritant, (C) is a strong sensitizer, (D) is inflammable, or (E) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable

handling or use, including reasonably foreseeable ingestion by children;

- (16) Pig and duck ranches;
- (17) Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;
- (18) Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use;
- (19) Foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;
- (20) Devices as defined in section 328-1;
- (21) Sources of ionizing radiation;
- (22) Medical examination, vaccination, revaccination, and immunization of school children. No child shall be subjected to such medical examination, vaccination, revaccination, or immunization, whose parent or guardian shall in writing object thereto on grounds that such requirements are not in accordance with the religious tenets of an established church of which he is a member or adherent, but no such objection shall be recognized when, in the opinion of the department there is danger of an epidemic from any communicable disease;
- (23) Disinsectization of aircraft entering or within the State as may be necessary to prevent the introduction, transmission, or spread of disease or the introduction or spread of any insect or other vector of significance to health;
- (24) Fumigation. The process by which substances emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents, or other pests, which, in the opinion of the department may be lethal, poisonous, noxious, or dangerous to human life; and
- (25) Ambulances and ambulance equipment.

The department may require such certificates, permits, or licenses as it may deem necessary adequately to regulate the conditions or businesses referred to in this section."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved April 16, 1986.)

ACT 38

H.B. NO. 2029-86

A Bill for an Act Relating to Regulatory Licensing Reform.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

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"[[(c)]] The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- [(3) Chapter 359L (Factory Built Housing Advisory Board)
- (4)] (3) Chapter 468B (Solar Energy Device Dealers)
- [(5)] (4) Chapter 468K (Travel Agencies)
- [(6)] (5) Chapter 373 (Commercial Employment Agencies)
- [(7)] (6) Chapter 442 (Board of Chiropractic Examiners)
- [(8)] (7) Chapter 448 (Board of Dental Examiners)
- [(9)] (8) Chapter 436E (Board of Acupuncture)

[(d)] The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, [and] Surveyors)] and Landscape Architects)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 454 (Mortgage Brokers and Solicitors)
- (7) Chapter 454D (Mortgage and Collection Servicing Agents)"

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 16, 1986.)

ACT 39

H.B. NO. 2618-86

A Bill for an Act A Bill for an Act¹ Relating to Certain Exempt Position in the International Services Branch of the Business and Industry Development Division, Department of Planning Economic Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to grant civil service status to an employee in the department of planning and economic development.

SECTION 2. The only employee currently not in the civil service in the international service branch of the business and industry development division, department of planning and economic development, who occupies the position of branch chief, shall be converted to permanent civil service status within the meanings of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination and shall be accorded all the rights, benefits, and privileges attributable thereto. Such rights and privileges shall include seniority, prior service credit, vacation and sick leave credits, and other benefits and privileges accorded employees with civil service status. The position held by this employee shall be allocated to the appropriate class in the position classification plan and the affected employee shall continue to receive at least the same rate of pay despite the change in status, provided that subsequent changes in position classification and pay shall be made pursuant to chapters 76 and 77, Hawaii Revised Statutes.

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved April 16, 1986.)

Note

1. So in original.

ACT 40

H.B. NO. 1739-86

A Bill for an Act Relating to Traffic Violations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-11.6, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) A person who fails to comply with the requirements of this section shall be subject to a fine of \$15 for each violation but shall not be guilty of a violation for which points shall be assessed pursuant to HRS §286-128. [and subject to a fine of \$15 for each violation.]”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1986.)

ACT 41

H.B. NO. 2285-86

A Bill for an Act Relating to Environmental Quality.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 342-7, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

“(d) Any variance or renewal thereof shall be granted within the requirements of this section and for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

- (1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, control, or abatement of the pollution or excessive noise involved, it shall be only until the necessary means for prevention, control, or abatement become practicable and subject to the taking of any substitute or alternate measures that the department may prescribe. No renewal of a variance granted under this subsection shall be allowed without a thorough review of known and available means of preventing, controlling, or abating the pollution or excessive noise involved.
- (2) The director may issue a variance for a period not exceeding [ten years.] five years.
- (3) Every variance granted under this section shall include conditions requiring the grantee to perform air, discharge, effluent, or noise sampling and report the results of such sampling to the department.

(e) Any variance granted pursuant to this section may be renewed from time to time on terms and conditions and for periods not exceeding [ten years]

five years which would be appropriate on initial granting of a variance; provided that the applicant for renewal has met all of the conditions specified in the immediately preceding variance; and provided[,] further[,] that the renewal, and the variance issued in pursuance thereof, shall provide for emission or discharge not greater than that attained pursuant to the terms of the immediately preceding variance at its expiration. No renewal shall be granted except on application therefor. Any such application shall be made at least one hundred eighty days prior to the expiration of the variance. The director shall act on an application for renewal within one hundred eighty days of the receipt of such application."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1986.)

ACT 42

H.B. NO. 2626-86

A Bill for an Act Relating to Vehicle Weight.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-35 Hawaii Revised Statutes is amended to read:

"§291-35 Gross weight, axle, and wheel loads. No motor vehicle or other power vehicle or combination of such vehicles equipped wholly with pneumatic tires, which has a total gross weight, including vehicle and load, an axle load, or a wheel load in excess of the limits set forth in this section shall be operated or moved upon any public road, street, or highway within the State; provided that the maximum gross weight, axle loads, and wheel loads allowed under this section shall be inapplicable when its application would adversely affect the receipt of federal funds for highway purposes; and provided further that no vehicle or combination of vehicles shall be operated on or moved over any bridge or other highway structure if the total gross weight, including vehicle and load, exceeds the posted maximum gross load limitation for the bridge or other highway structure.

- (1) The total gross weight, in pounds, imposed on any public road, street, or highway within the State by any group of two or more consecutive axles, on a vehicle or combination of vehicles shall not exceed the following when the distance between the first and last axles of the group under consideration is:
 - (A) Less than forty-two inches, the weight imposed shall not exceed twenty-four thousand pounds.
 - (B) At least forty-two inches but less than six feet, the weight imposed shall not exceed thirty-four thousand pounds. This grouping of two consecutive axles shall be known as tandem axle.
- (2) The total gross weight, in pounds, imposed on interstate highways within the State by any group of two or more consecutive axles, on a vehicle or combination of vehicles shall not exceed that resulting from application of the formula:

$$W = 500\left(\frac{LN}{N-1} + 12N + 36\right)$$

when the distance between the first and last axles of the group under consideration is at least six feet and over and where W = maximum weight in pounds carried on any group of two or more axles computed to the nearest 500 pounds.

L = Distance in feet between the extremes of any group of two or more consecutive axles, to the nearest foot,

N = Number of axles in group under consideration.

Provided that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more. Provided also that the overall gross weight does not exceed [80,800] 80,000 pounds.

- (3) The total gross weight, in pounds, imposed on any public road, street, or highway, other than interstate highways, within the State by a vehicle or combination of vehicles shall not exceed that determined by the formula:

$$[W = 880(L + 40)] \quad \underline{W = 900 (L + 40)}$$

when the distance between the first and last axle is at least six feet and over and where W = maximum weight in pounds rounded to the nearest 500 pounds.

L = Distance in feet between the first and last axles of the vehicle or combination of vehicles.

Provided that the overall gross weight does not exceed 88,000 pounds.

- (4) No vehicle or combination of vehicles shall be used or operated on any public road, street, or highway within the State (A) with a load upon any single or tandem axle or combination of axles which exceeds the carrying capacity of the axles specified by the manufacturer, or (B) with a total weight in excess of its designed capacity as indicated by its designed gross vehicle weights or gross combination weights.
- (5) The total gross weight imposed upon the public road, street, or highway by any single axle shall not exceed twenty-four thousand pounds. For the purpose of this section, axles placed in the same transverse plane which are closer than forty-two inches shall be considered as one axle.
- (6) The total gross weight imposed upon the public road, street, or highway by any one wheel, either single or dual mounting, shall not exceed twelve thousand pounds.
- (7) The director of transportation, in the case of state highways, or the county engineer, in the case of county roads and streets, may place and maintain signs to limit the gross weight of a vehicle or combination of vehicles traveling over a bridge or other highway structure in the interest of public safety when it is determined through engineering investigation and analysis that the theoretical load carrying capacity of the bridge or structure is less than the maximum gross vehicular weight allowed by this chapter. In determining the weight limits and in posting the weight limit signs, the director or the county engineer need not comply with rule-making provisions of chapter 91; provided that if any person objects

to the weight limits, the person may object to the rule as provided in chapter 91.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1986.)

ACT 43

S.B. NO. 1538-86

A Bill for an Act Relating to Checks.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 490:3-505.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In any action against a person who makes any check, draft, or order for the payment of money which has been dishonored for lack of funds or credit to pay the same, or because the maker has no account with the drawee, the plaintiff may recover from the defendant damages in an amount equal to \$100 or triple the amount for which the check, draft, or order is drawn, whichever is greater; provided that damages recovered under this section shall not exceed by more than \$500 the amount of the check, draft, or order, and may be awarded only if:

- (1) The plaintiff made written demand of the defendant for payment of the amount of the check, draft, or order not less than ten days before commencing the action; and
- (2) The defendant failed to tender to the plaintiff, prior to commencement of the action, an amount of money not less than the amount demanded.

The written demand shall include notice that if the money is not paid within ten days, triple damages may be incurred by the defendant. The plaintiff shall provide the defendant written notice of demand for payment by [registered] certified mail,¹ restricted delivery,¹ at the last known address of the defendant with a request for a return receipt and marked “deliver to addressee only.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1986.)

Note

1. Comma should be underscored.

ACT 44

S.B. NO. 1574-86

A Bill for an Act Relating to the Uniform Commercial Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 490:4-213, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

“(4) Subject to any right of the bank to apply the credit to an obligation of the customer, credit given by a bank for an item in an account with its customer becomes available for withdrawal as of right

- (a) In any case where the bank has received a provisional settlement for the item, - when such settlement becomes final and the bank has had a reasonable time to learn that the settlement is final;
- (b) In any case where the bank is both a depositary bank and a payor bank and the item is finally paid, - at the opening of the bank's second banking day following receipt of the item.

Each bank or payor shall, upon request, provide written notice of its check hold policy.

For purposes of this subsection “payor” means any entity by which an item is payable as drawn or accepted, and includes savings and loan associations and credit unions.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved April 17, 1986.)

ACT 45

S.B. NO. 1846-86

A Bill for an Act Relating to Developmental Disabilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 333E-4, Hawaii Revised Statutes, is amended to read as follows:

“§333E-4 **Membership on the state council.** The state council shall consist of twenty-five voting members, appointed by the governor for staggered terms in the manner prescribed by section 26-34. The members of the council shall be residents of the State. The council shall at all times include in its membership representatives of the following, unless these programs are no longer in existence in the State: principal state agencies, higher education training facilities, each university affiliated facility or satellite center in the State, the state protection and advocacy system, and local agencies or nongovernmental agencies or groups concerned with services to persons with developmental disabilities in this State.

- (1) At least one-half of the membership of the council shall consist of consumers who are:
 - (A) [Are persons] Persons with developmental disabilities or their parents, or
 - (B) Immediate relatives or guardians of such persons, and who are not employees of a state agency which receives funds or provides services under the state council, or managing employees, or persons with an ownership or controlling interest of any other entity which receives funds or provides services under the state council.
- (2) Of the members of the council described in paragraph (1):
 - (A) At least one-third shall be persons with developmental disabilities, and

- (B) At least one-third shall be immediate relatives or guardians of such person, of which at least one shall be an immediate relative or guardian of an institutionalized person with developmental disabilities.
- (3) The members of the state council shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this chapter."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1986.)

ACT 46

S.B. NO. 2063-86

A Bill for an Act Relating to Psychologists.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 465, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§465- Foreign graduates. Applicants for licensing whose applications are based on graduation from a foreign university shall submit evidence satisfactory to the board to establish that their formal education is equivalent to a doctoral degree in psychology granted by a United States university that is regionally accredited. The board shall consider the certification of the graduate division of the University of Hawaii that the degree from the foreign university is equivalent to a doctoral degree granted from a regionally accredited institution."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 47

S.B. NO. 2463-86

A Bill for an Act Relating to the Department of Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 298-2, Hawaii Revised Statutes, is amended to read as follows:

"§298-2 Department powers and duties. (a) The department of education shall have entire charge and control and be responsible for the conduct of all affairs pertaining to public instruction. The department may establish and maintain schools for secular instruction at such places and for such terms as in its discretion it may deem advisable and the funds at its disposal may permit.

The schools may include high schools, kindergarten schools, schools or classes for pregrade education, boarding schools, evening as well as day schools. The department may also maintain classes for technical and other instruction in any school where there may not be pupils sufficient in number to justify the establishment of separate schools for such purposes.

(b) The department shall regulate the courses of study to be pursued in all grades of public schools and classify them by such methods as [it shall deem] the department deems proper; provided[,] that the course of study and instruction in the first eight grades shall be so regulated that not less than fifty per cent of the study and instruction in each school day shall be devoted to the oral expression, the written composition, and the spelling of the English language[.], except for special projects using the Hawaiian language as approved by the board of education.

(c) Nothing in this section shall interfere with those attending a summer school."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1986.)

ACT 48

S.B. NO. 1679-86

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 171-17, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Reopening. In the event of reopening of the rental to be paid on a lease, the rental for any ensuing period shall be the fair market rental at the time of reopening. At least six months prior to the time of reopening, the fair market rental shall be determined by an appraiser whose services shall be contracted for by the board and the lessee shall be promptly notified of the determination; provided that should the lessee fail to agree upon the fair market rental, he may appoint his own appraiser who together with the board's appraiser shall appoint a third appraiser and the fair market rental shall be determined by arbitration as provided in chapter 658. The lessee shall pay for his own appraiser, the board shall pay for its appraiser, and the cost of the third appraiser shall be borne equally by the lessee and the board. Any language in present leases to the contrary notwithstanding, the provisions of this subsection, when possible and notwithstanding the six month notice required, shall apply to leases with original lease rental reopening dates effective before and after [[]May 28, 1985[]]."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1986.)

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide a tax refund or tax credit when certain factors are met. The legislature finds that these factors have been met for the fifth year in a row and that the legislature is constitutionally required to give a tax credit or a tax refund.

The purpose of this Act is to provide for such an income tax credit to satisfy constitutionally mandated requirements.

SECTION 2. (a) In addition to the excise tax credit allowed under section 235-55.5, Hawaii Revised Statutes, and in addition to any other credit allowed under chapter 235, Hawaii Revised Statutes, there shall be allowed each resident individual taxpayer who qualifies under section 235-55.5(a), Hawaii Revised Statutes, a general income tax credit of \$1 which shall be deducted from income tax liability computed under chapter 235, Hawaii Revised Statutes. The general income tax credit of \$1 shall be multiplied by the number of qualified exemptions as defined in section 235-55.5(c), Hawaii Revised Statutes, to which the taxpayer is entitled, regardless of adjusted gross income. Section 235-55.5(c), Hawaii Revised Statutes, to the contrary notwithstanding, such qualified exemption shall have been a resident of the State as defined in section 235-1, Hawaii Revised Statutes, for at least nine months whether or not such qualified resident was physically in the State for nine months. For the purposes of this section, multiple exemptions shall not be granted for this credit because of age, or deficiencies in vision, hearing, or other disability. The general income tax credit allowed under this section shall be deducted from income tax liability for the taxable year 1986. Section 235-55.5(d) and (e), Hawaii Revised Statutes, is applicable to this section and incorporated herein to the extent not in conflict with this section.

(b) The credit under this section shall not be available to (1) any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year; (2) any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or (3) any misdemeanor who has been committed to jail and has been physically confined for the full taxable year.

(c) This section implements the provisions of Article VII, section 6, of the State of Hawaii Constitution enacted by the 1978 Constitutional Convention, which states as follows:

"DISPOSITION OF EXCESS REVENUES

Section 6. Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law."

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1986.)

ACT 50

S.B. NO. 2403-86

A Bill for an Act Relating to Motor Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that there are certain difficulties encountered by the owners of motor vehicles in the State of Hawaii. In order to obtain automobile insurance, proof of registration is required. In certain counties, evidence of insurance coverage must be demonstrated in order to receive a registration certificate.

The purpose of this Act is to alleviate the problems posed by these mutually conflicting requisites, and to allow the owners of motor vehicles to register said vehicles without proof of insurance.

SECTION 2. Section 286-41, Hawaii Revised Statutes, is amended to read as follows:

"§286-41 Application for registration; full faith and credit to current certificates; this part not applicable to certain equipment. (a) Every owner of a motor vehicle which is to be operated upon the public highways shall, for each vehicle owned, except as herein otherwise provided, apply to the director of finance of the county where the vehicle is to be operated, for the registration thereof.

(b) Application for the registration of a vehicle shall be made upon the appropriate form furnished by the director of finance and shall contain the name, occupation, and address of the owner and legal owner; and, if the applicant is a member of the United States naval or military forces, the applicant shall give [his] the organization and station. All applications shall also contain a description of the vehicle, including the name of the maker, the type of fuel for the use of which it is adapted (e.g., gasoline, diesel oil, liquefied petroleum gas), the serial or motor number, and the date first sold by the manufacturer or dealer, and such further description of the vehicle as is called for in the form, and such other information as may be required by the director of finance, to establish legal ownership.

(c) If the vehicle to be registered is specially constructed, reconstructed, rebuilt, or is an imported vehicle, such fact shall be stated in the application and upon the registration of every imported motor vehicle, which has been registered theretofore in any other state or county, the owner shall surrender to the director of finance [his] the certificates of registration or other evidence of such form of registration as may be in the applicant's possession or control. The director of finance shall grant full faith and credit to the currently valid certificates of title and registration describing such vehicle, the ownership thereof, and any liens noted thereon, issued by any title state or county in which the vehicle was last registered. The acceptance by the director of finance of a certificate of title or of registration issued by another state or county, as hereinabove provided, in the absence of knowledge that the certificate is forged, fraudulent, or void, shall be a sufficient determination of the genuineness and regularity of the certificate and of the truth of the recitals therein, and no liability shall be incurred by any officer or employee of the director of finance by reason of so accepting the certificate.

(d) Notwithstanding any other law to the contrary, the director of finance of the county in which the application for registration is sought shall not require proof of insurance as a condition to satisfy the requirements of this part. This subsection shall apply only to the initial registration of any motor vehicle.

[(d)] (e) The provisions of this part requiring the registration of motor vehicles shall not apply to special mobile equipment nor to implements of husbandry temporarily drawn, moved, or otherwise propelled upon the public highways."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 1986.)

ACT 51

S.B. NO. 505

A Bill for an Act Relating to the Newspaper Antitrust Exemption.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. State law presently exempts certain joint newspaper operations from the provisions of state antitrust laws. This exemption is unnecessary, because federal law permits joint operating agreements between some newspapers, and state law cannot forbid what federal law allows or allow what is prohibited under federal law. Since the Hawaii law simply duplicates the federal statute, repealing it will eliminate a statutory redundancy, without altering the applicable law.

The purpose of this Act is to repeal the antitrust exemption for newspapers.

SECTION 2. Chapter 480, part II, Hawaii Revised Statutes, is repealed.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1986.)

ACT 52

S.B. NO. 1573-86

A Bill for an Act Relating to the Consumer and Small Business Advocate.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 269-51, Hawaii Revised Statutes, is amended to read as follows:

"§269-51 Consumer advocate; director of commerce and consumer affairs. The director of commerce and consumer affairs shall be the consumer advocate in hearings before the public utilities commission. The consumer advocate shall represent, protect, and advance the [interest] interests of all consumers, including small businesses, of utility services. The consumer advocate shall not receive any salary in addition to the salary received as director of commerce and consumer affairs.

The responsibility for advocating the interests of the consumer of utility services shall be separate and distinct from the responsibilities of the public utilities commission and those assistants employed by the commission. As consumer advocate, the director of commerce and consumer affairs shall have full rights to participate as a party in interest in all proceedings before the public utilities commission."

SECTION 2. Section 269-53, Hawaii Revised Statutes, is amended to read as follows:

“[]§269-53[]] **Legal counsel.** The attorney general and [his] the attorney general's deputies shall act as [attorneys] legal counsel for the consumer advocate.”

SECTION 3. Section 269-54, Hawaii Revised Statutes, is amended to read as follows:

“[]§269-54[]] **General powers; duties.** (a) The consumer advocate shall have the authority expressly conferred [upon him] by or reasonably implied from the provisions of this part.

(b) The consumer advocate may:

- (1) Adopt rules pursuant to chapter 91 necessary to effectuate the purposes of this part.
- (2) Conduct investigations to secure information useful in lawful administration of any provision of this part.
- (3) Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote the interests of the consumer in the public utilities field.
- (4) Study the operation of laws affecting all consumers, including small businesses, of utility services and recommend to the governor and the legislature new laws and amendments of laws in the consumers' interest in the public utilities field.
- (5) Organize and hold conferences on problems affecting consumers of utility services.
- (6) Perform such other acts as may be incidental to the exercise of the functions, powers, and duties set forth in this section.
- (7) Represent the interests of consumers of utility services before any state or federal agency or instrumentality having jurisdiction over matters which affect those interests.

(c) Whenever it appears to the consumer advocate that [any public utility has]: (1) any public utility has violated or failed to comply with any provision of this part or of any state or federal law; [or] (2) any public utility has failed to comply with any rule, regulation, or other requirement of the public utilities commission or of any other state or federal agency; [or] (3) any public utility has failed to comply with any provision of its charter or franchise; [or] (4) [that] changes, additions, extensions, or repairs to the plant or service of any public utility are necessary to meet the reasonable convenience or necessity of the public; or (5) [that any] the rates, fares, classifications, charges, or rules of any public utility are unreasonable or unreasonably discriminatory, [he] the consumer advocate may institute proceedings for appropriate relief before the public utilities commission. The consumer advocate may appeal any final decision and order in any proceeding to which [he] the consumer advocate is a party in the manner provided by law.

(d) The consumer advocate may file with the commission and serve on any public utility a request in writing to furnish any information reasonably relevant to any matter or proceeding before the commission or reasonably required by the consumer advocate to perform [his] the duties hereunder. Any such request shall set forth with reasonable specificity the purpose for which the information is requested and shall designate with reasonable specificity the information desired. The public utility shall comply with such request within the time limit set forth by the consumer advocate unless within ten days following service it requests a hearing on the matter before the public utilities commission

and states its reasons therefor. If a hearing is requested, the public utilities commission shall proceed to hold the hearing and make its determination on the request within [30] thirty days after the same is filed. The consumer advocate or the public utility may appeal to the supreme court the decision of the commission on any such request. Subject to the foregoing, such requests may ask the public utility to: (1) furnish any information with which the [director] the¹ consumer advocate may require concerning the condition, operations, practices, or services of the public utility; (2) produce and permit the consumer advocate or [his] the consumer advocate's representative to inspect and copy any designated documents (including writings, drawing, graphs, charts, photographs, recordings, and other data compilations from which information can be obtained), or to inspect and copy, test, or sample any designated tangible thing which is in the possession, custody, or control of the public utility; or (3) [to] permit entry upon land or other property in the possession or control of the utility for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object thereon."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 18, 1986.)

Note

1. So in original.

ACT 53

S.B. NO. 2300-86

A Bill for an Act Relating to Corporations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 416-35, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) A corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation, against any liability asserted against or incurred by the agent in any such capacity or arising out of the agent's status as such, whether or not the corporation would have the power to indemnify the agent against such liability under this section. Any such insurance may be procured from any insurance company designated by the board of directors, including any insurance company in which the corporation shall have an equity or other interest, through stock ownership or otherwise."

SECTION 2. Act 167, Session Laws of Hawaii, 1983, is amended by amending section -5(h) of Section 1 to read as follows:

"(h) A corporation shall have the power to purchase and maintain insurance on behalf of any agent of the corporation, against any liability asserted against or incurred by the agent in any such capacity or arising out of the agent's status as such, whether or not the corporation would have the power to indemnify the agent against such liability under this section. Any such insurance may be procured from any insurance company designated by the board of directors, including any insurance company in which the corporation shall have an equity or other interest, through stock ownership or otherwise."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 1986.)

ACT 54

S.B. NO. 2325-86

A Bill for an Act Relating to Fuel Tax Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 243-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Every distributor of diesel oil shall, in addition to the tax required by subsection (a) of this section, pay a license tax to the department for each gallon of such diesel oil sold or used by the distributor for operating a motor vehicle or motor vehicles upon public highways of the State. The rates of the additional tax hereby imposed are as follows:

- (1) For each gallon of diesel oil so sold in the city and county of Honolulu, or in any other county for ultimate use in the city and county of Honolulu, or used in the city and county of Honolulu, [11] 10 cents state tax, and in addition thereto such amount, to be known as the “city and county of Honolulu fuel tax”, as shall be levied pursuant to section 243-5.
- (2) For each gallon of diesel oil so sold in the county of Hawaii, or in any other county for ultimate use in the county of Hawaii, or used in the county of Hawaii, [11] 10 cents state tax, and in addition thereto such amount, to be known as the “county of Hawaii fuel tax”, as shall be levied pursuant to section 243-5.
- (3) For each gallon of diesel oil so sold in the county of Maui, or in any other county for ultimate use in the county of Maui, or used in the county of Maui, [11] 10 cents state tax, and in addition thereto such amount, to be known as the “county of Maui fuel tax”, as shall be levied pursuant to section 243-5.
- (4) For each gallon of diesel oil so sold in the county of Kauai, or in any other county for ultimate use in the county of Kauai, or used in the county of Kauai, [11] 10 cents state tax, and in addition thereto such amount, to be known as the “county of Kauai fuel tax”, as shall be levied pursuant to section 243-5.

If any user of diesel oil furnishes a certificate, in such form as the department shall prescribe, to the distributor, or the distributor who uses diesel oil signs such certificate, certifying that the diesel oil is for use in operating a motor vehicle or motor vehicles in areas other than upon the public highways of the State, the tax as provided in paragraphs (1) to (4) shall not be applicable. In the event a certificate is not or cannot be furnished and the diesel oil is in fact for use for operating a motor vehicle or motor vehicles in areas other than upon public highways of the State, the user thereof may obtain a refund of all taxes thereon imposed by the foregoing paragraphs. The department shall prescribe rules to administer the refunding of such taxes.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved April 18, 1986.)

ACT 55

S.B. NO. 1794-86

A Bill for an Act Relating to the Metropolitan Planning Organization.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 279E-3, Hawaii Revised Statutes, is amended to read as follows:

"§279E-3 Metropolitan Planning Organization membership. The MPO shall consist of a policy committee and appropriate staff. The MPO policy committee shall consist of thirteen members. These members shall include: five members of the legislative body of the appropriate county; three members of the state senate, one of whom shall be chairperson of the senate committee with primary responsibility for transportation issues, and the other two of whom shall be appointed by the senate president; and three members of the state house of representatives, one of whom shall be the chairperson of the committee of the house of representatives with primary responsibility for transportation issues, and the other two of whom shall be appointed by the speaker of the house; one member appointed by the governor; and one member appointed by the mayor of the [city and county of Honolulu.] appropriate county.

Each member of the MPO policy committee who is a member of the state legislature or the legislative body of the county shall serve for the same term as the term of office for which the member is elected. There shall be no remuneration for this service.

Vacancies in the MPO policy committee which occur shall be filled in the same manner in which the original member was appointed."

SECTION 2. Section 279E-6, Hawaii Revised Statutes, is amended to read as follows:

"§279E-6 Meetings. Notice of MPO policy committee meetings shall be published in a newspaper of general circulation at least forty-eight hours in advance and such meetings shall be open to the public.

Where the MPO makes a decision concerning input to any of its advisory plans or procedures or any other matter, then there shall be at least six members of the MPO policy committee present, of whom at least three shall be [legislative] state members and at least three shall be county members. The decision shall be made by a majority vote of the members present."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on approval.

(Approved April 21, 1986.)

ACT 56

S.B. NO. 2056-86

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-82, Hawaii Revised Statutes, is amended to read as follows:

“§514A-82 Contents of bylaws. The bylaws shall provide for at least the following:

- (1) Board of directors:
 - (A) The election of a board of directors;
 - (B) The number of persons constituting the board; provided that condominiums with more than one hundred individual apartment units shall have an elected board of not less than nine members unless not less than seventy-five per cent of all apartment owners vote by mail ballot, or at a special or annual meeting, to reduce the minimum number of directors;
 - (C) That for the initial term of office, directors shall serve for a term of three years or the term as specified by the bylaws or until their successors have been elected or appointed;
 - (D) The powers and duties of the board;
 - (E) The compensation, if any, of the directors;
 - (F) The method of removal from office of directors; [and] that at any regular or special meeting of the apartment owners, any one or more members of the board of directors may be removed with or without cause by a majority of the apartment owners and a successor shall then and there be elected for the remainder of the term to fill the vacancy thus created. If such removal and replacement is to occur at a special association meeting, the call for such meeting shall be by the president or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the apartment owners; and provided further that if the secretary or managing agent does not send out the notices for the special meeting within fourteen days of receipt of the petition, the petitioners shall send out the notices for the special meeting. Except as otherwise provided herein, such meeting and the procedures adopted for the removal and replacement from office of directors shall be conducted in accordance with the bylaws of the association pertaining to the removal, replacement, and election of directors; and
 - (G) Whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.
- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners and that votes allocated to any area which constitutes a common element under section 514A-13(h) shall not be cast at any association meeting, whether or not it is so designated in the declaration.
- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners.
- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.

- (5) Election of a treasurer who shall keep the financial records and books of account.
- (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges.
- (7) Manner of collecting common expenses, expenses, costs, and fees recoverable by the association under section 514A-94, and any penalties and late charges.
- (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
- (9) Method of adopting and amending administrative rules and regulations governing the details of the operation and use of the common elements.
- (10) Such restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners.
- (11) The bylaws may be amended at any time by the vote or written consent of not less than sixty-five per cent of all apartment owners; provided that each one of the particulars set forth in this section shall always be embodied in the bylaws[.]; and provided further that proposed bylaws with the rationale for the proposal may be submitted by the board of directors or by a volunteer apartment owners' committee. If submitted by such committee, it shall be accompanied by a petition signed by not less than twenty-five per cent of the apartment owners. The proposed bylaws, rationale, and ballots for voting on the proposed bylaws shall be mailed to the owners for approval without change within fourteen days of the receipt of the petition by the board of directors. Failure of the board of directors to comply with these provisions shall validate the vote taken by the volunteer apartment owners' committee provided the volunteer owners' committee has complied with all other applicable rules on voting for bylaw amendments.
- (12) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request.
- (13) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. There shall not be more than one representative on the board of directors from any one apartment.
- (14) A director shall not cast any proxy vote at any board meeting, nor shall a director vote at any board meeting on any issue in which the director has a conflict of interest.
- (15) No resident manager of a condominium shall serve on its board of directors.

- (16) The board of directors shall meet at least once a year.
- (17) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the association, if any.
- (18) No resident manager, or managing agent shall solicit, for use by such manager or managing agent, any proxies from any apartment owner of the association of owners which employs him, nor shall he cast any proxy vote at any association meeting except for the purpose of establishing a quorum. No member of a board of directors who uses association funds to solicit proxies, shall cast any proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors.
- (19) All association and board of directors meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order.
- (20) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors.
- (21) Notice of the annual board meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to the meeting.
- (22) Penalties chargeable against persons for violation of the covenants, conditions, or restrictions set forth in the declaration, or of the bylaws and administrative rules adopted pursuant thereto, method of determination of violations, and manner of enforcing such penalties, if any."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 21, 1986.)

ACT 57

S.B. NO. 2159-86

A Bill for an Act Relating to Department of Transportation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 266-1, Hawaii Revised Statutes, is amended to read as follows:

"§266-1 Department of transportation; harbors; jurisdiction. All ocean [shores seaward of the shoreline, shore] waters and navigable streams, and all harbor and roadsteads, and all harbor and waterfront improvements, belonging to or controlled by the State, and all vessels and shipping within the harbors, roadsteads, waters, and streams shall be under the care and control of the department of transportation."

SECTION 2. Section 266-3, Hawaii Revised Statutes, is amended by amending subsections (a), (b) and (c) to read as follows:

“(a) The director of transportation may from time to time adopt rules not inconsistent with law as he may deem necessary respecting the manner in which all vessels may enter and moor, anchor or dock in the [shore] ocean waters, navigable streams, harbors, ports, and roadsteads of the State, or move from one dock, wharf, bulkhead, quay, landing, anchorage, or mooring to another within the waters, streams, harbors, ports, or roadsteads; the examination, guidance, and control of harbor masters and their assistants, and their conduct while on duty; the embarking or disembarking of passengers; the expeditious and careful handling of freight, goods, wares, and merchandise of every kind which may be delivered for shipment or discharged on the wharves, docks, quays, bulkheads, or landings belonging to or controlled by the State; and defining the duties and powers of carriers, shippers, and consignees respecting passengers, freight, goods, wares, and merchandise in and upon the wharf, landing, dock, quay, or bulkhead. The director may also make further rules and regulations for the safety of the docks, wharves, landings, quays, bulkheads, and harbor and waterfront improvements belonging to or controlled by the State.

(b) The director may also, from time to time, make, alter, amend, and repeal such rules not inconsistent with law as shall be deemed necessary for the proper regulation and control of all shipping in the harbors, [shore] ocean waters, and navigable streams belonging to or controlled by the State, and of the entry, departure, mooring, and berthing of vessels therein, and for the regulation and control of all other matters and things connected with shipping in all the harbors, [shore] ocean waters, and navigable streams; and rules and regulations to prevent the throwing into these harbors, [shore] ocean waters, and navigable streams, of rubbish, refuse, garbage, or other substances liable to make such harbors, [shore] ocean waters, and navigable streams unsightly, unhealthful or unclean, or liable to fill up or shoal or shallow the harbors, [shore] ocean waters, and streams and likewise to prevent the escape of fuel or other oils into the harbors, [shore] ocean waters, and streams, either from any vessel or from pipes or storage tanks upon the land.

(c) In addition to the powers vested in the director by sections 266-1 and 266-2, the director, to protect and foster public peace and tranquility and to promote public safety, health, and welfare in or on the [shore] ocean waters [and shores], navigable streams, and on beaches encumbered with easements in favor of the public, [and on public beaches constructed seaward of an existing shoreline,] may adopt rules governing the [shore] ocean waters, [shores,] navigable streams, and beaches encumbered with easements in favor of the public[, and public beaches constructed seaward of an existing shoreline]. The rules to be adopted under this subsection may include:

- (1) Safety measures, requirements, and practices in or on the [shore] ocean waters and [shores] navigable streams of the State;
- (2) The licensing and registration of persons or organizations engaged in commercial activities in or on the [shore] ocean waters [or shores] and navigable streams of the State;
- (3) The licensing and registration of equipment utilized for commercial activities in or on the [shore] ocean waters [or shores] and navigable streams of the State;
- (4) [The prohibition of the following uses and activities on] For beaches encumbered with easements in favor of the public [and on public beaches constructed seaward of an existing shoreline:], the prohibition or denial of the following uses and activities:
 - (A) Commercial activities;
 - (B) The storage, parking, and display of any personal property;

- (C) The placement of structures or obstructions; [and]
- (D) The beaching, landing, mooring, or anchoring of any vessels:
and
- [(D)] (E) Other uses or activities that may interfere with the public use and enjoyment of [the] these beaches; and
- (5) Any other matter relating to the safety, health, and welfare of the general public.

Management of all other beaches, shores, and submerged lands, belonging to or controlled by the State, shall be the responsibility of department of land and natural resources.

For the purpose of this chapter, if not inconsistent with the context: "Beaches encumbered with easements in favor of the public" means any lands which lie along the shores of the State [above the shoreline and] which are now, or may hereafter be, encumbered by easements granted in favor of the public for bathing purposes and for foot passage.

"Ocean waters" means all waters seaward of the shoreline within the jurisdiction of the State.

["Shore waters and shores" means all ocean shores and waters seaward of the shoreline and within the jurisdiction of the State.]

"Shoreline" means the upper reaches of the wash of the waves, usually evidenced by the edge of vegetation growth or by the upper limit of debris left by the wash of the waves."

SECTION 3. Section 266-16, Hawaii Revised Statutes, is amended to read as follows:

"§266-16 Limitation of private use of [shores or shore] ocean waters. No person shall erect or place any structure or similar object, or sink any type of watercraft or other sizeable object, or abandon any type of watercraft or other sizeable object, either sunk or unsunk, on or within the [shores or shore] ocean waters of the State without a written permit from the department of transportation. The department may require any person violating this section to remove any structure, similar object, watercraft, or other sizeable object, within the meaning of this section, on or within the [shores or shore] ocean waters of the State. If any person fails to remove same within a time limit set by the department, it may effect such removal and charge the person with the cost thereof. The department may enforce compliance with this section by the use of any appropriate remedy."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 21, 1986.)

ACT 58

S.B. NO. 2206-86

A Bill for an Act Relating to Commercial Fishing Vessels.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 266-21.1, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

“(d) After June 30, 1980, the department of transportation shall not renew or issue a permit to a person who is not the owner of the vessel which is moored or which the person desires to moor in a state small boat harbor. Any individual who[, on May 29, 1984,] is an owner of a vessel used for commercial purposes, including commercial fishing as a principal means of livelihood, and possesses a valid mooring permit or commercial permit or both, [shall have one year to] may, in accordance with the rules adopted by the department pursuant to chapter 91, transfer ownership of the vessel from personal ownership to corporate or other business ownership without terminating the right to moor or operate the vessel under the permit or permits. The existing permit or permits shall be reissued in the name of the transferee corporation or other business entity.

For the purposes of this section, “person” means any individual, firm, partnership, corporation, trust, association, joint venture, organization, institution, or any other legal entity, and “owner” includes the legal owner of a vessel where there is no security interest held by anyone on the vessel, a buyer under a purchase money security interest, a debtor under any security interest, a demise charterer of a vessel, or a lessee or charterer of a vessel under a lease or charter which provides the lessee or charterer with exclusive right to possession of the vessel to the exclusion of the lessor or the person from whom the vessel is chartered. A “legal owner” includes a person who holds unencumbered title to a vessel or is a secured party under a security interest in the vessel. An owner who is issued a permit to moor a vessel in a state small boat harbor shall notify the department in writing of a transfer of interest or possession in the vessel within seven days of¹ transfer.

Any corporation or other business entity possessing a valid commercial permit issued by the department may, in accordance with rules adopted by the department pursuant to chapter 91, transfer any or all stock or other interest to another person without terminating its right to retain or renew its commercial permit or any other permit issued to it by the department. Any person possessing a commercial permit shall be required to meet minimum revenue standards, as provided by rules adopted by the department pursuant to chapter 91, as a condition of retaining or renewing the commercial permit.

(e) The department may [provide] designate moorage space within state small boat harbors to accommodate commercial fishing vessels and visitors on cruising vessels.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on October 1, 1986.

(Approved April 21, 1986.)

Note

1. Prior to amendment, “the” appeared here.

ACT 59

S.B. NO. 1561-86

A Bill for an Act Relating to County Licenses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 445-15, Hawaii Revised Statutes, is amended to read as follows:

“§445-15 Control by ordinance. Each council has the power by ordinance:

- (1) To require or eliminate the requirement for annual licenses, and impose annual license fees, for any business engaged in within the county, except as provided in paragraph (4).
- (2) To increase, decrease, or waive effective upon the expiration of any existing license, the annual fee for a license issued under this chapter, except as provided in paragraph (4), or to exempt wholly or partially, the payment by any religious, charitable, or educational organization or institution of any license fee imposed in this chapter or any ordinance enacted hereunder with respect to any business which is not regularly engaged in or carried on by such organization or institution.
- (3) To make such rules and regulations not inconsistent with law concerning the conduct of the business of all persons licensed under this chapter, as deemed necessary for the public good.
- (4) The powers conferred by paragraphs (1) and (2) shall not be exercised in respect of:
 - (A) Motor vehicle dealers, as defined by chapter 437.
 - (B) Licensees under chapter 281, relating to intoxicating liquor.
 - (C) Sellers of “tobacco products,” as defined by chapter 245.
 - (D) Sellers of “liquid fuel” as defined by chapter 243.
 - (E) Banks, savings and loan, or building and loan associations, public utilities, insurers, and insurance agents.
 - (F) Boxing.
 - (G) Fishing.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 21, 1986.)

ACT 60

S.B. NO. 1624-86

A Bill for an Act Relating to Expenditure of Public Contracts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 103-53.5, Hawaii Revised Statutes, is amended to read as follows:

“§103-53.5 [Out-of-state purchases.] Tax adjustment for out-of-state vendors and tax-exempt bidders.¹ Where the bidder or vendor is an out-of-state vendor not doing business in the State[,] or is a person exempted from paying the applicable general excise tax, the package bid or purchase price, for the purpose of determining the lowest price bid, shall be increased by the applicable retail rate of general excise tax and the applicable use tax. The lowest responsible bidder, taking into consideration the above increases, shall be awarded the contract, but the contract amount of any contract awarded shall be the amount of the bid offered and shall not include the amount of [said] the increases.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

ACT 61

SECTION 3. This Act shall take effect upon its approval.

(Approved April 21, 1986.)

Note

1. Should be underscored.

ACT 61

S.B. NO. 1625-86

A Bill for an Act Relating to the Milk Control Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 157-1, Hawaii Revised Statutes, is amended by deleting the definitions of "Commissioner" and "Division".

[““Commissioner” means the commissioner of the division of milk control.”]

[““Division” means the division of milk control created by this chapter.”]

SECTION 2. Section 157-18, Hawaii Revised Statutes, is amended to read as follows:

“§157-18 Report to governor. At the end of each license year, the board of agriculture shall submit to the governor a report relating to the activities of the milk control [division.] program.”

SECTION 3. Section 157-11, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 157-12, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved April 21, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 62

S.B. NO. 1629-86

A Bill for an Act Relating to Livestock Ownership and Movement Certification.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 142, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§142- Livestock ownership and movement certification. Every owner, upon sale or transportation of livestock, shall complete a certificate describing the animal or animals including sex, breed, age, and brand and indicating the seller or owner, buyer or consignee, and origin and destination. A copy of the certificate shall accompany the shipment, one copy shall be given to the department of agriculture, and a copy shall be retained by the owner.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 21, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 63

S.B. NO. 1643-86

A Bill for an Act Relating to the Reporting of Animal Diseases.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-13, Hawaii Revised Statutes, is amended to read as follows:

“§142-13 Reporting disease; penalty. Any person knowing or having reason to believe that any animal on or about [his own] that person's premises or the premises of another is affected with [glanders, farcy, or] any infectious or contagious disease who fails to promptly report the same [forthwith] to the department of agriculture, shall be fined not less than [\$5] \$25 nor more than [\$100.] \$500.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 21, 1986.)

ACT 64

S.B. NO. 1646-86

A Bill for an Act Relating to Liability of Dog Owner.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-74, Hawaii Revised Statutes, is amended to read as follows:

“§142-74 Liability of dog owner; penalty. If any dog, while on private property without the consent of the owner of that property, injures or destroys any sheep [or], cattle, [goats, hogs, fowls,] goat, hog, fowl, or other property belonging to any person other than the owner of the dog, the owner of the dog shall be liable in damages to the person injured[,] for the value of the property so injured or destroyed[; and the]. The owner of the dog shall confine or destroy the dog, and if [he] the owner of the dog neglects or refuses to do so, [he shall,] the owner of the dog, in the event of any further damage being done to the person or property of any person by the dog, in addition to paying the person injured for the damage, shall pay the costs of the trial[,] together with [a fine of \$10, or in default of the payment of the fine, be imprisoned for the term of thirty days,] the penalty imposed under section 142-12, and it shall be lawful for any other person to destroy the dog.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

ACT 65

SECTION 3. This Act shall take effect upon its approval.

(Approved April 21, 1986.)

ACT 65

S.B. NO. 1652-86

A Bill for an Act Relating to the Department of the Attorney General.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 846-2, Hawaii Revised Statutes, is amended to read as follows:

"§846-2 Establishment of the Hawaii criminal justice data center. There shall be a data center, to be known as the "Hawaii criminal justice data center", established in the department of the attorney general. The data center shall be directed and managed by a director appointed by the attorney general [without regard] subject to chapters 76 and 77."

SECTION 2. The director of the Hawaii criminal justice data center of the department of the attorney general, currently not in civil service, shall be converted to permanent civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination and without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges; provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1986.

(Approved April 21, 1986.)

ACT 66

S.B. NO. 2002-86

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 235-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each individual and corporate resident taxpayer who files an individual or corporate net income tax return for a taxable year, may claim a tax credit under this section against the Hawaii State individual or corporate net income tax. The tax credit may be claimed for any solar or wind energy device or heat pump in an amount not to exceed ten per cent of the total cost of the device or heat pump; provided that the tax credit shall apply only to the actual cost of the solar or wind energy device or the heat pump, their accessories, and installation and shall not include the cost of consumer incentive premiums unrelated to the operation of the solar or wind energy device or the heat pump offered with the sale of the solar or wind energy device or the heat pump. The credit shall be claimed against net income tax liability for the year in which the solar or wind energy device or the heat pump was purchased and placed in use; provided the tax credit shall be applicable only with respect to solar devices

which are erected and placed in service after December [12,] 31, 1974, but before December 31, 1992; provided further that in the case of wind energy devices and heat pumps, the tax credit shall be applicable only with respect to wind energy devices and heat pumps which are installed and placed in service after December 31, 1980, but before December 31, 1992. Tax credits which exceed the taxpayer's income tax liability may be used as a credit against his income tax liability in subsequent years until exhausted. If federal energy tax credits are not extended beyond December 31, 1985, are not retroactively extended or reenacted, or federal energy tax credits the same as or less in amount than the credits in effect during the 1985 taxable year are not enacted during the taxable year 1986, then the state tax credit shall be increased to fifteen per cent of the total cost [from the time of expiration of the federal tax credit] after December 31, 1985, to December 31, 1992."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1985.

(Approved April 21, 1986.)

ACT 67

S.B. NO. 2296-86

A Bill for an Act Relating to Liquor Licenses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 281-60, Hawaii Revised Statutes, is amended to read as follows:

"§281-60 Further application. If any applicant has at any time been refused a license, [on the ground that he is not a fit person to hold a license,] no further application [by him] shall be considered for one year from such refusal, [or the last of such refusals if there have been more than one. If an application is refused because a sufficient number of protests have been filed and sustained under section 281-59, no other application shall be considered for the same person for the same premises within one year from such refusal thereof. In any other case where an application is refused, no other application by the same person at the same location shall be accepted and considered until a period of ninety days has elapsed from the date of such refusal.]"

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 21, 1986.)

ACT 68

S.B. NO. 2314-86

A Bill for an Act Relating to State Government Motor Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 105, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§105- State motor pool revolving fund. (a) There shall be in the state treasury, a state motor pool revolving fund for acquisition, operation, repair, maintenance, storage, and disposal of state-owned vehicles assigned to the motor pool.

(b) All proceeds collected from motor pool rentals shall be deposited in the state motor pool revolving fund and be expended by the comptroller to carry out the purposes of this section."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 21, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 69

S.B. NO. 1023

A Bill for an Act Relating to the Courts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 604, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

"§604- Power to enjoin and temporarily restrain harassment. (a) For the purposes of this section:

"Course of conduct" means a pattern of conduct composed of a series of acts over any period of time evidencing a continuity of purpose.

"Harassment" means an intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual, and that serves no legitimate purpose; provided that such course of conduct would cause a reasonable person to suffer emotional distress.

(b) The district courts shall have power to enjoin or prohibit, or temporarily restrain harassment.

(c) Any person who has been subjected to harassment may petition the district court of the district in which the petitioner resides for a temporary restraining order and an injunction from further harassment.

(d) A petition for relief from harassment shall be in writing and shall allege that a recent past act or acts of harassment may have occurred, or that threats of harassment make it probable that acts of harassment may be imminent; and shall be accompanied by an affidavit made under oath or statement made under penalty of perjury stating the specific facts and circumstances from which relief is sought.

(d)¹ Upon petition to a district court under this section, the court may temporarily restrain for a period of fifteen days, persons named in the petition from harassing the petitioner if the alleged harassment has caused the petitioner substantial emotional distress. The court may issue an ex parte temporary restraining order either in writing or orally, provided that oral orders shall be reduced to writing by the close of the next court day following oral issuance.

(e) A hearing on the petition to enjoin harassment shall be held within fifteen days after it is filed. The parties named in the petition may file responses explaining, excusing, justifying, or denying the alleged act or acts of harassment. The court shall receive such evidence as is relevant at the hearing, and may make independent inquiry.

If the court finds by clear and convincing evidence that harassment exists, it shall enjoin for no more than three years further harassment of the petitioner; provided that this paragraph shall not prohibit the court from issuing other injunctions against the named parties even if the time to which the injunction applies exceeds a total of three years.

(f) The court may grant the prevailing party in an action brought under this section, costs and fees, including attorney's fees.

(g) Willful violations of orders issued under this section shall be punishable as criminal contempt under section 710-1077.

(h) Nothing in this section shall be construed to prohibit constitutionally protected activity."

SECTION 2. New statutory material is underscored.²

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 70

S.B. NO. 2471-86

A Bill for an Act Relating to Ice Storage Systems.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. 235-12, Hawaii Revised Statutes, is amended to read as follows:

"§235-12 Solar or wind energy devices [and], heat pumps[;] or ice storage systems; income tax credit. (a) Each individual and corporate resident taxpayer who files an individual or corporate net income tax return for a taxable year, may claim a tax credit under this section against the Hawaii State individual or corporate net income tax. The tax credit may be claimed for any solar or wind energy device [or], heat pump, or ice storage system in an amount not to exceed ten per cent of the total cost of the device [or], heat pump[;], or ice storage system; provided that the tax credit shall apply only to the actual cost of the solar or wind energy device [or], the heat pump, or ice storage system, their accessories, and installation and shall not include the cost of consumer incentive premiums unrelated to the operation of the solar or wind energy device [or], the heat pump, or ice storage system offered with the sale of the solar or wind energy device [or], the heat pump[;], or ice storage system. The credit shall be claimed against net income tax liability for the year in which the solar or wind energy device [or], the heat pump, or ice storage system was purchased and placed in use; provided [the]:

- (1) The tax credit shall be applicable only with respect to solar devices which are erected and placed in service after December [12,] 31, 1974, but before December 31, 1992; [provided further that in]

- (2) In the case of wind energy devices and heat pumps, the tax credit shall be applicable only with respect to wind energy devices and heat pumps which are installed and placed in service after December 31, 1980, but before December 31, 1992[.]; and
- (3) In the case of ice storage systems, the tax credit shall be applicable only with respect to ice storage systems which are installed and placed in service after December 31, 1985, but before December 31, 1992.

Tax credits which exceed the taxpayer's income tax liability may be used as a credit against [his] the taxpayer's income tax liability in subsequent years until exhausted. If federal energy tax credits are not extended beyond December 31, 1985, the state tax credit shall be increased to fifteen per cent of the total cost from the time of expiration of the federal tax credit to December 31, 1992.

(b) The director of taxation shall prepare such forms as may be necessary to claim a credit under this section. [He] The director may also require the taxpayer to furnish reasonable information in order [that he may] to ascertain the validity of the claim for credit made under this section and [he] may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(c) As used in this section ["solar]:

"Solar or wind energy device" means any new identifiable facility, equipment, apparatus, or the like which makes use of solar or wind energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for their generation.

"Heat pump" means and refers to an electric powered compression heating system which utilizes warm ambient air or heated gas to assist in the production of hot water.

"Ice storage system" refers to ice banks or other cool energy storage tanks, containers, accessories, and controls that are specifically designed to store ice or chilled fluids for the express purpose of shifting the consumption of energy to off-peak periods."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1985.

(Approved April 22, 1986.)

ACT 71

S.B. NO. 52

A Bill for an Act Relating to the Employees' Retirement System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 88-119, Hawaii Revised Statutes, is amended to read as follows:

"§88-119 Investments. Investments may be made in:

- (1) Real estate loans and mortgages. Obligations (as defined in section 431-286) of any of the following classes:
 - (A) Obligations secured by mortgages of nonprofit corporations desiring to build multi-rental units (ten units or more) subject to control of the government for occupancy by families displaced as a result of government action.

- (B) Obligations secured by mortgages insured by the federal housing administration.
- (C) Obligations for the repayment of home loans made under the Servicemen's Readjustment Act of 1944 or under Title II of the National Housing Act.
- (D) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple[.]; provided that the amount of the obligation shall not at the time investment is made therein exceed seventy-five per cent of the value of the real estate and improvements mortgaged to secure it, except that if the obligation is for an amount of \$75,000 or less, the amount of the obligation shall not exceed eighty per cent of the real estate and improvements mortgaged to secure it, and except that the amount of the obligation at the time investment is made therein may exceed seventy-five per cent but no more than ninety per cent of the value of the real estate and improvements mortgaged to secure it[.]; provided further that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than seventy-five per cent of the value of the real estate and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to seventy-five per cent of the market value of the real estate and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees. Real estate shall not be deemed to be encumbered within the meaning of this subparagraph by reason of the existence of any of the restrictions, charges, or claims described in section 431-293(a).
- (E) Other obligations secured by first mortgages of leasehold interests in improved real estate[.]; provided that (i) each such leasehold interest at such time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures, and (ii) the amount of the obligation shall not at the time investment is made therein exceed seventy-five per cent of the value of the respective leasehold interest and improvements, except that if the obligation is for an amount of \$75,000 or less, the amount of the obligation shall not exceed eighty per cent of the value of the respective leasehold interest and improvements, and except that the amount of the obligation, at the time investment is made therein, may exceed seventy-five per cent but no more than ninety per cent of the value of the leasehold interest and improvements mortgaged to secure it[.]; provided further that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than seventy-five per cent of the value of the leasehold interest and improve-

ments mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to seventy-five per cent of the market value of the leasehold interest and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees.

(F) Obligations for the repayment of home loans guaranteed by the department of Hawaiian home lands pursuant to section 214(b) of the Hawaiian Homes Commission Act, 1920.

(G) Obligations secured by second mortgages on improved real estate for which the mortgagor procures a second mortgage on the improved real estate for the purpose of acquiring the leaseholder's fee simple interest in the improved real estate[.]; provided that any prior mortgage does not contain provisions which might jeopardize the security position of the retirement system or the borrower's ability to repay the mortgage loan.

The board of trustees may retain such real estate, including leasehold interests therein, as it may acquire by foreclosure of mortgages or in enforcement of security, or as may be conveyed to it in satisfaction of debts previously contracted[.]; provided that all such real estate, other than leasehold interests, shall be sold within five years after acquiring the same, subject to extension by the governor for additional periods not exceeding five years each, and that all such leasehold interests shall be sold within one year after acquiring the same, subject to extension by the governor for additional periods not exceeding one year each.

(2) Government obligations, etc. Obligations of any of the following classes:

(A) Obligations issued or guaranteed as to principal and interest by the United States or by any state thereof, or by the Dominion of Canada or by any province thereof, or by any municipal or political subdivision or school district of any of the foregoing[.]; provided that principal of and interest on such obligations are payable in currency of the United States.

(B) Revenue bonds, whether or not permitted by any other provision hereof, of the State or any municipal or political subdivision thereof, including the board of water supply of the city and county of Honolulu, and street or improvement district bonds of any district or project in the State.

(C) Obligations issued or guaranteed by any federal home loan bank including consolidated federal home loan bank obligations, the Home Owner's Loan Corporation, the Federal National Mortgage Association, or the Small Business Administration.

(3) Corporate obligations. Obligations of any corporation created or existing under the laws of the United States or of any state or district thereof, and qualified under any of the following:

(A) Fixed interest-bearing obligations, if the average annual net earnings of the obligor or guarantor available for its fixed charges for a period of five fiscal years next preceding the date of the investment have equalled at least one hundred fifty per cent of its average annual fixed charges applicable to the period and if its net earnings for the last year of the period

have equalled at least one hundred fifty per cent of its fixed charges for such year.

- (B) Fixed interest-bearing obligations secured by assignment of a lease or leases, or the rentals payable thereunder, of real or personal property (including, without limitation, charters of vessels) to a corporation created or existing under the laws of the United States or of any state or district thereof[.]; provided that (i) the fixed rentals assigned shall be sufficient to repay the principal of and interest on the obligation within the unexpired term of the lease, exclusive of the term which may be provided by any option of renewal, and (ii) the net earnings of the corporation shall meet the requirements described in subparagraph (A).
- (C) Fixed interest-bearing obligations secured by rights or assignment of rights under a contract (including, without limitation, a contract for the sale of products, materials, supplies, or other property, or for the furnishing of transportation or services) with a corporation created or existing under the laws of the United States or of any state or district thereof[.]; provided that (i) the rights securing such obligations shall include the right to receive payments sufficient to repay the principal of and interest on the obligations within the unexpired term of the contract, and (ii) the net earnings of the corporation shall meet the requirements described in subparagraph (A).

As used in this paragraph, the terms "fixed charges" and "net earnings available for fixed charges" shall have the meanings and application ascribed thereto in sections 431-286 and 431-287.

- (4) Preferred and common stocks. Shares of preferred or common stock of any corporation created or existing under the laws of the United States or of any state or district thereof[.]; provided that the book value of the total investment in such stocks shall at no time exceed forty per cent of the total book value of all investments of the system.
- (5) Obligations eligible by law for purchase in the open market by federal reserve banks.
- (6) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, by the Inter-American Development Bank, or by the Asian Development Bank.
- (7) Obligations secured by collateral consisting of any of the securities or stock listed above and worth, at the time the investment is made, at least fifteen per cent more than the amount of the respective obligations.
- (8) Insurance company obligations. Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in Hawaii, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities or of real or personal property or interests therein.
- (9) Interests in real property. Interests in improved or productive real property in which, in the informed opinion of the board of trustees, it is prudent to invest funds of the system; provided that the total book value of these investments at no time shall exceed five per cent

of the total book value of all investments in the system. For purposes of this paragraph, "real property" includes any property treated as real property either by local law or for federal income tax purposes. Investments in improved or productive real property shall be made through pooled funds, including common or collective trust funds of banks and trust companies; group or unit trusts, investment trusts, and other pooled funds on behalf of the system by investment managers retained by the fund.

- (10) Other securities. Securities [and stock] in which in the informed opinion of the board of trustees it is prudent to invest funds of the system, including interest rate and stock index futures contracts within the meaning of the Commodity Exchange Act and traded on an exchange or board of trade regulated under that Act only to hedge against anticipated changes in interest rates and stock prices that might otherwise have an adverse effect upon the value of the system's securities portfolios; covered put and call options on securities traded on one or more of the exchanges; and stock; whether or not the securities or stock are expressly authorized by or qualify under the foregoing paragraphs, and notwithstanding any limitation of any of the foregoing paragraphs (including paragraph (4)); provided that the total book value of investments under this paragraph shall at no time exceed ten per cent of the total book value of all investments of the system."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

ACT 72

S.B. NO. 159

A Bill for an Act Relating to Third-Party Financing Arrangements for Public Facilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 36, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§36- Third-party financing for public facilities. (a) Any agency may enter into any third-party financing arrangement for the purpose of implementing energy conservation, cogeneration, or alternative energy measures in public facilities. These innovative financing arrangements with third parties may include, but not be limited to, options such as leasing joint ventures, shared-savings plans, or energy service contracts, or any combination thereof; provided that in due course a state agency shall receive title to the energy system being financed. The department of accounting and general services shall review and approve third-party financing arrangements for state facilities.

(b) For purposes of this section:

"Energy service contract" means the investor undertakes to engineer, install, operate, and maintain improvements to the customer's facilities to supply all or a specified portion of the customer's energy requirements at a fixed

aggregate or unit price set below the corresponding costs in the absence of improvements.

"Shared-savings plan" means the investor undertakes to engineer, install, operate, and maintain improvements to the customer's facilities and the customer agrees to pay a contractually specified amount of measured energy cost savings.

"Third-party financing arrangement" means any arrangement in which a private sector investor finances, designs, constructs, owns, and operates an energy-conserving or energy-producing system in a public facility."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 73

S.B. NO. 427

A Bill for an Act Relating to a Job-Sharing Pilot Project in the Department of Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the increasing mobility of society, changing patterns of socioeconomic needs and values, and the economic realities of life in Hawaii require consideration of innovative approaches to ensure the availability of flexible employment opportunities to meet the varying needs of Hawaii's people. Job-sharing, which would provide half-time positions in place of full-time positions, is an innovation which will increase available employment options so that people may be employed on the basis of their financial or other needs, such as raising a family, without the necessity of being employed on a full-time basis, or perhaps, the necessity of resigning from full-time employment. The legislature further finds that the merits of job-sharing warrant systematic experimentation to determine its utility as an employment option. The legislature further finds that the success of the pilot projects in the department of education, provided for by Act 150, Session Laws of Hawaii 1978, Act 134, Session Laws of Hawaii 1980, Act 105, Session Laws of Hawaii 1981, Act 128, Session Laws of Hawaii 1982, and Act 139, Session Laws of Hawaii 1982, warrant further expansion of the job-sharing concept to other departments.

The legislature further finds that, due to lack of child care facilities and nonflexible working hours available, many nurses are leaving this profession to pursue other types of employment which do not utilize their specialized training and skills. The department of health is an appropriate agency within which to initiate a job-sharing pilot project due to the possibility of expanding the number of jobs under job-sharing and allowing the flexibility necessary for a nurse to also fill the role of a mother. Moreover, implementation of job-sharing may create a more stimulating and healthier environment for nurses in their professional capacities, especially for those who are faced with the dilemma of desiring to spend more time with their families without totally leaving the job market in order to supplement their family's income. In addition, the implementation of this project for nurses would allow them more time to pursue

additional training and education, further benefitting the citizens of the State who receive the services of the nursing profession.

The purpose of this Act is to establish a voluntary job-sharing pilot project in the department of health.

SECTION 2. There is established a two-year job-sharing pilot project to be conducted by the department of health during fiscal years 1986-1987 and 1987-1988; provided that the department shall not implement the pilot project without first carefully developing its plans, procedures, and guidelines. The department shall initiate the project within one month of establishing the final guidelines or, to the extent practicable, during fiscal year 1986-1987, to allow sufficient notice for recruitment. Job-sharing, for the purpose of this Act, is the voluntary equal division of one full-time permanent position between two employees, each performing one-half of the work required for the permanent position. The two half-time permanent positions resulting from the division of one full-time position shall constitute two job-sharing positions. The department of health shall devote no more than one hundred full-time permanent positions to job-sharing pursuant to this Act and the majority of those positions shall be allocated to neighbor island hospitals. Every work site shall be given the opportunity to participate. The department shall administer the pilot project established by this Act and, in consultation with the representatives of the appropriate bargaining units and a representative from all the hospitals operated by the State, shall adopt guidelines for the implementation of this Act.

SECTION 3. The following shall constitute general requirements of the pilot project conducted within the department of health and shall be followed in the implementation of this Act:

- (1) The director of health shall announce the pilot project to all full-time, regular employees of the department excluding persons not actually engaged in the nursing profession, and shall solicit the voluntary requests of such personnel who may be interested in participating in the job-sharing pilot project.
- (2) The director of health, in consultation with the recognized employee bargaining units and representatives from the hospitals, shall formulate and adopt guidelines for the implementation of this Act. Employees who respond to the announcement and others who request information shall receive a full written description of the terms of the pilot project when the guidelines are finalized and those desiring to participate may apply to participate in the project. The employees who apply for participation shall obtain the concurrence of their immediate supervisor, other appropriate personnel officers, and the director of health. Those who qualify then shall be interviewed by a personnel officer of the department. Participation shall be for fiscal year 1986-1987 or 1987-1988, except as provided in paragraph (6). It is recommended that not more than fifty per cent of the eligible personnel at any institution or work site be accepted to participate in the project. It is further recommended that, when sufficient eligible applicants are available, not less than twenty-five per cent of the personnel at any institution or work site be accepted to participate in the project.
- (3) Upon the selection of a permanent, full-time employee for job-sharing under this Act, the director of health, for the purposes of this Act, shall convert the position of the employee into two job-sharing positions, one of which shall be filled by the employee, and

the other which shall be filled by either another permanent employee or a person hired under this Act.

- (4) Persons hired to fill job-sharing positions shall be recruited in accordance with this Act; provided that any person hired for a job-sharing position shall possess the minimum requirements of the full-time position which was converted to job-sharing positions under this Act.
- (5) Job-sharing, for the purpose of this Act, is the voluntary sharing of a full-time, permanent employee's position with another employee, with each working one-half of the total number of hours of work required per month, and each receiving one-half of the salary to which each is respectively entitled and at least one-half of each employee benefit afforded to full-time employees.

The full-time, permanent employee shall not lose membership in an employee bargaining unit because of participation in this project, any law to the contrary notwithstanding. Union membership or service fees paid by job-sharers under this Act shall be at a level consistent with normal union membership dues or service fees. The State's contribution to a job-sharer's prepaid health, prepaid dental, and any group life insurance plans shall be the same as for full-time employees, any other provision of law to the contrary notwithstanding. Job-sharers shall be covered under chapter 386, Hawaii Revised Statutes, and the applicable provisions of chapter 383, Hawaii Revised Statutes. Service credit for permanent employees participating in the pilot project under this Act shall be given on the same basis as that for full-time employees. Nothing in this Act shall be construed, however, to vest any person with any rights to permanent employment status, whether under civil service or otherwise, which did not exist prior to the participation of the person in the job-sharing pilot project. No full-time position shall be abolished or reduced to a half-time position as a result of this Act, except for the purpose of job-sharing, and only for the time allowed for the project by this Act. In a reduction-in-force procedure, consideration of a job-sharer's retention points shall be on the same basis as that of a full-time employee. Nothing in this Act shall impair the employment or employment rights or benefits of any employee.

- (6) Participation in the pilot project shall require the commitment on the part of all parties to a contractual agreement; provided that the employee shall be given the option to contract for one or more years.
- (7) No job-sharing position created under this Act and committed for a specified period of time under the terms of the contractual agreement shall be converted to full-time status before the termination of the contractual agreement. A job-sharing vacancy created by the resignation, retirement, or other permanent or temporary severance of employment with the department of health on the part of any person shall not be converted to full-time status until termination of the contractual agreement and shall be filled immediately through recruitment of another person pursuant to this Act.
- (8) Upon the termination of contractual agreements under this Act, all job-sharing positions shall be reconverted to full-time positions, and

the employees who held the full-time positions prior to their participation in the pilot project shall be entitled to resume their positions without loss of any employee rights.

SECTION 4. The office of the legislative auditor shall monitor and evaluate the pilot project, with particular regard to the efficacy of the job-sharing concept, and shall evaluate factors such as turnover rates, absenteeism, productivity, morale, and demographic factors such as ethnicity, sex, and age composition of participants, and other pertinent data. The office of the legislative auditor among other analyses shall identify factors which facilitated or made more difficult the implementation of this Act. The office of the legislative auditor shall submit status reports on its findings to the legislature prior to the convening of the regular sessions of 1987 and 1988 and shall submit a report to the legislature on its findings and recommendations prior to the convening of the regular session of 1989.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

ACT 74

S.B. NO. 1572-86

A Bill for an Act Relating to Regulation of Motor Vehicle Repairs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. [[](a)[]] The following chapters are hereby repealed effective December 31, 1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- [(2)] Chapter 437B (Motor Vehicle Repair Industry Board)
- [(3)] (2) Chapter 440 (Boxing Commission)
- [(4)] (3) Chapter 460J (Pest Control Board)
- [(5)] (4) Chapter 438 (Board of Barbers)
- [(6)] (5) Chapter 439 (Board of Cosmetology)

[[](b)[]] The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)
- (7) Chapter 455 (Board of Examiners in Naturopathy)

[[](c)[]] The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)
- (7) Chapter 442 (Board of Chiropractic Examiners)

- (8) Chapter 448 (Board of Dental Examiners)
- (9) Chapter 436E (Board of Acupuncture)
- [[[d]]] The following chapters are hereby repealed effective December 31, 1989:
 - (1) Chapter 444 (Contractors License Board)
 - (2) Chapter 448E (Board of Electricians and Plumbers)
 - (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
 - (4) Chapter 466 (Board of Public Accountancy)
 - (5) Chapter 467 (Real Estate Commission)
- [[[e]]] The following chapters are hereby repealed effective December 31, 1990:
 - (1) Chapter 447 (Dental Hygienists)
 - (2) Chapter 453 (Board of Medical Examiners)
 - (3) Chapter 457 (Board of Nursing)
 - (4) Chapter 462A (Pilotage)
- [[[f]]] The following [[chapters are]] hereby repealed effective December 31, 1991:
 - [[[1]]] Chapter 448H (Elevator Mechanics Licensing Board)
 - [[[2]]] Chapter 451A (Board of Hearing Aid Dealers and Fitters)
 - [[[3]]] Chapter 457B (Board of Examiners of Nursing Home Administrators)
 - [[[4]]] Chapter 460 (Board of Osteopathic Examiners)
 - [[[5]]] Chapter 461 (Board of Pharmacy)
 - [[[6]]] Chapter 461J (Board of Physical Therapy)
 - [[[7]]] Chapter 463E (Podiatry)[.]
- (g) The following chapter is hereby repealed effective December 31, 1992:
 - (1) Chapter 437B (Motor Vehicle Repair Industry Board).

SECTION 2. Section 286-48, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) In the event the salvage vehicle is rebuilt so as to be capable of again operating on the highways of this State, the motor vehicle shall not be licensed for such operation, nor shall the ownership thereof be transferred until there is submitted to the director of finance:

- (1) The prescribed bill of sale;
- (2) An appropriate application for registration of the rebuilt or restored motor vehicle along with the salvage certificate and a certificate of inspection signed by [a] the registered or certified motor vehicle repair dealer[.] or the registered or certified motor vehicle mechanic who rebuilt the vehicle, attesting that the original recognized vehicle manufacturer’s established repair procedures or specifications and allowable tolerances for the particular model and year were utilized and adhered to; and
- (3) Any other document and fee required by the director of finance.

The counties may, by ordinance, establish the fee to be charged for the inspection of rebuilt motor vehicles.”

SECTION 3. Section 437B-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board shall contract with the [office of the state director of vocational education] University of Hawaii to develop and administer a certification program for motor vehicle mechanics.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

ACT 75

S.B. NO. 1655-86

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Under existing provisions of the Hawaiian Homes Commission Act, 1920, as amended, (HHCA), the department of Hawaiian home lands is authorized to lease to native Hawaiians the right to the use and occupancy of a tract or tracts of Hawaiian home lands for residential, agricultural, pastoral, or aquacultural purposes. The HHCA requires that the lease be for a term of ninety-nine years at a rental of \$1 a year, and does not allow the lessee, among other restrictions, to sublet or to pledge the leasehold interest to secure private financing, except for loans insured or guaranteed by a federal agency. Generally, the lessee's spouse or children who are not native Hawaiians are prohibited from succeeding to the lessee's leasehold interest.

The purpose of this Act is to provide an alternative means by which native Hawaiians may lease Hawaiian home lands for residential, agricultural, pastoral, or aquacultural purposes by authorizing the department to lease a tract or tracts of Hawaiian home lands to native Hawaiians through an alternative leasing program which would be in addition to, but would not supplant, the existing homestead leasing program.

The alternative program would allow lessees greater flexibility in financing improvements on the land, in obtaining the financing and construction of off-site and on-site infrastructure improvements, and in passing their leasehold interest to a surviving spouse or children or others.

This alternative leasing program will provide the lessee with the opportunity to obtain financing on the lessee's equity in the leasehold as well as greater flexibility in disposing of the leasehold.

SECTION 2. The Hawaiian Homes Commission Act, 1920, as amended, is amended by adding a new title to read as follows:

"TITLE 5: HOMESTEAD GENERAL LEASING PROGRAM

§501. Definitions. As used in this title if not inconsistent with the context:

"Homestead general lease" means a lease for residential, agricultural, pastoral, or aquacultural purposes issued under this title;

"Homestead general lessee" means the lessee under a homestead general lease and the successors in interest of the lessee.

§502. Subdivision, improvement, and lease of Hawaiian home lands. (a) The department is authorized to subdivide and improve any Hawaiian home lands suitable for residential use including single-family, multiple-family, apartment, cluster, and row housing, or for agricultural, pastoral, or aquacultural uses, or a combination of uses.

(b) The department is authorized to enter into agreements, including leases, subleases, conditional leasing agreements, or other agreements or combinations thereof, with one or more developers without recourse to public auction for the construction of off-site and on-site infrastructure improvements and for the development of tracts or residential units on Hawaiian home lands; provided that the developers' lease and security interest therein will be retired on a pro rata basis by the issuance of either homestead leases or homestead general leases to native Hawaiians purchasing the subdivided lots and the improvements related thereto; provided further that no state funds shall be utilized.

(c) The qualification requirements to be met by developers and the minimum standards for improvements to be built shall be as provided by rules adopted by the department.

§503. Term, rent, and other conditions of the homestead general lease.

(a) Leases under this title may be for an initial term of not more than fifty-five years with the privilege of extension when such extension is a condition for participation in any government or private mortgage lending, guarantee, or insurance program; provided that the initial term and extensions shall not exceed seventy-five years.

(b) Annual lease rent shall be an amount equal to the fair market rent of the premises at the inception of the homestead general lease, as determined by appraisal. The homestead general lease may include rent escalation and renegotiation clauses for specific periods during the term of the homestead general lease as determined by the department; provided that the department is authorized to subsidize lease rents for native Hawaiian homestead general lessees.

(c) The homestead general lessee shall pay all real property taxes, assessments for the homestead general lessee's pro rata share of the costs of improvements of the tract in which the land is located, and such other charges made against or levied upon the premises.

(d) When constructing any improvements on the premises, the homestead general lessee shall comply with building standards and requirements established by the department.

(e) The premises shall be used for the purpose prescribed in the original homestead general lease and shall not be used for any other purpose without the prior written consent of the department.

(f) Leases under this title shall contain conditions permitting the homestead general lessee to sublet or part with the possession of the whole or any part of the premises and to sell, assign, transfer, or otherwise dispose of, or encumber by way of a mortgage or otherwise, any interest in the homestead general lease or any improvements erected on the premises with the prior written consent of the department.

(g) The department is authorized from time to time upon the issuance of a homestead general lease, to modify any provision contained in this section and section 512 of this title to the extent necessary to qualify the homestead general lease for any government or private mortgage lending, guarantee, or insurance program.

(h) The department is authorized to include any other conditions in homestead general leases that it deems advisable to effectuate the purposes of this title.

§504. Qualifications of original lessee. The original lessee of a homestead general lease shall be a native Hawaiian or native Hawaiians not less than eighteen years of age.

§505. Individuals not eligible to receive an original homestead general lease. The following shall not be eligible to receive a homestead general lease:

- (1) Any individual, or the spouse of any individual who holds a homestead lease under section 207(a) of this Act; provided that such an individual shall be eligible if the homestead lease is transferred or surrendered to the department prior to assuming the homestead general lease, or if the homestead lease is converted to a homestead general lease as provided by section 507.
- (2) Any individual, or the spouse of any individual who currently holds a homestead general lease.

§506. Award of homestead general leases; notification of applicants on homestead waiting lists; disposition by rent. (a) Homestead general leases in a new subdivision created under this title shall be offered and awarded in the following priority order:

- (1) First, to applicants on the appropriate waiting list (residential, agricultural, pastoral, or aquacultural) of the island on which the lots are located, in rank order based on rules of the department;
- (2) Second, to applicants on all other homestead waiting lists of the island on which the lots are located, consolidated in rank order based on date of application;
- (3) Third, to all other applicants on homestead waiting lists, consolidated in rank order based on date of application; and
- (4) Finally, to any native Hawaiian who is at least eighteen years of age, based on the date that written applications are received;

provided that the department shall not be required to maintain the applications received as a waiting list for other subdivisions subsequently created.

(b) The department shall notify applicants on homestead waiting lists of the availability of homestead general leases by publishing a public notice in a newspaper of general circulation and in a newspaper published in each county; provided that the department shall also notify active applicants on the appropriate waiting list on the island on which the lots are located by certified mail.

(c) If lots or units are available after all interested and qualified native Hawaiians have been awarded lots or units, the department may temporarily dispose of the remaining lots or units at fair market rental to the general public with preference to native Hawaiians. The department may develop rental units on the remaining lots and rent them at fair market rental to the general public, with preference given to native Hawaiians.

§507. Conversion of homestead lease to homestead general lease. The department is authorized to permit a lessee to convert any homestead lease to a homestead general lease. The procedures and conditions for such conversion shall be as provided by rules adopted by the department.

§508. Transfer of title by bequest, devise, intestate succession, or operation of law, and upon foreclosure. Title to a homestead general lease and to the improvement upon the premises, may be transferred by assignment, sublease, testamentary bequest or devise, intestate succession, or otherwise by operation of law. Individuals, partnerships, corporations, or agencies of government, disqualified under the Act to take a lease for homestead purposes, may succeed and take title to a homestead general lease and the improvements on the premises by transfer or by purchasing at or after a sale upon a foreclosure of a mortgage permitted under this title.

§509. Notice of breach or default. In the event of a breach or default of any term, covenant, restriction, or condition of any homestead general lease or other instrument issued under this title, the department shall deliver a written notice of the breach or default by personal service or by registered or certified mail to the party in default and to each holder of record having any security interest in the land covered by or subject to the lease or other instrument, making demand upon the party to cure or remedy the breach or default within sixty calendar days from the date of receipt of the notice; provided that where the breach involves a failure to make timely rental payments pursuant to the homestead general lease or other instrument issued under this title, the written notice shall include a demand upon the party to cure the breach within not less than five or more than thirty calendar days after receipt of the notice. Upon failure of the party to cure or remedy the breach or default within the time period provided in this section or within such additional period as the department may allow for good cause, subject to section 510, the department may exercise such rights as it may have at law or as set forth in the homestead general lease or other instrument.

§510. Rights of holder of security interest. Whenever any notice of breach or default is given to any party under section 509, or under the terms of any homestead general lease or other instrument issued under this title, a copy of the notice shall be delivered by the department to all holders of record of any security interest covered by the homestead general lease or other instrument whose security interest has been duly recorded with the bureau of conveyances. If the department chooses to forfeit the privilege, interest, or estate created by the homestead general lease or other instrument, each holder, at its option, may cure or remedy the breach or default, if the same can be cured or remedied by the payment of money or, if such is not the case, by performing or pledging in writing to perform all the terms, covenants, restrictions, or conditions of any homestead general lease or other instrument capable of performance by the holder, as determined by the department, within the time period provided in section 509 or within such additional period as the department may allow for good cause and add the cost thereof to the mortgage debt and the lien of the mortgage.

§511. Cancellation of homestead general lease. After giving notice of breach or default as provided in section 509, and subject to the rights of each holder of record having a security interest as provided in section 510, the department may terminate the homestead general lease or tenancy and take possession of the leased land together with all improvements placed thereon, without demand or previous entry and without legal process, and shall retain all rent paid in advance as damages for the breach or default.

§512. Restrictions on transfers; appraisals; waiver when. (a) The following restrictions shall apply to any transfers, assignments of lease, or agreements of sale:

- (1) For a period of ten years after the date of the original lease, the department shall be given the first option to purchase the unit, property, or lease at a price which shall not exceed the sum of:
 - (A) The original cost to the homestead general lessee;
 - (B) The cost of any improvements added by the homestead general lessee; and
 - (C) Simple interest on the homestead general lessee's equity in the property at the rate of seven per cent a year.

The department may purchase the unit, property, or lease either outright, free and clear of all liens and encumbrances, or by transfer subject to an existing mortgage.

If by outright purchase, the department shall insure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the homestead general lessee.

In any purchase by transfer subject to an existing mortgage, the department shall agree to assume and to pay the balance on any first mortgage created for the purpose of enabling the homestead general lessee to obtain funds for the purchase of the unit, property, or lease and any other mortgages which were created with the approval and consent of the department. In such cases, the amount to be paid to the homestead general lessee by the department shall be the difference between the above-mentioned price and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the department.

- (2) After the end of the tenth year from the date of the original homestead general lease, the department shall have the first option to purchase the improvements on the lot at a price not to exceed the appraised value of the improvements.
 - (3) For a transfer, assignment of lease, or agreement of sale involving a commercial farm, in addition to purchasing the improvements, the department may also purchase the mature crops and tree crops. The purchase price shall not exceed the value of the mature crops and the residual value of the tree crops, and shall be established by appraisal, whether or not the transfer, assignment of lease, or agreement of sale occurs during the ten-year restriction period.
 - (4) In a transfer, assignment of lease, or agreement of sale occurring during the ten-year restriction period, the department's purchase price of the improvements shall be the lesser of the price calculated in paragraph (1) and the value appraised in paragraph (2).
 - (5) In a transfer, assignment of lease, or agreement of sale, the department's payment to the homestead general lessee shall be the difference of the amount calculated in paragraph (1) or appraised in paragraphs (2) and (3), as the case may be, and any indebtedness to the department.
 - (6) Notwithstanding any other law to the contrary, if upon transfer, assignment of lease, or agreement of sale, the department determines that the cost to remedy, renovate, or to restore the premises to a safe and reasonably comfortable condition is unwarranted due to the age, condition, or the estimated remaining economic life of the improvements, the department shall assign no value to the improvements. The homestead general lessee or legal representative may be authorized by the department to dispose of the improvements under terms and conditions prescribed by the department.
- (b) For the purposes of this section, the appraisal of improvements or crops to be purchased by the department shall be performed by either of the following methods:
- (1) By one appraiser mutually agreeable to both the department and the homestead general lessee and the cost of the appraisal shall be borne equally; or
 - (2) By not more than three disinterested appraisers of which the first shall be contracted for by the department; provided that should the

homestead general lessee fail to agree upon the value, the homestead general lessee may appoint the homestead general lessee's own appraiser. If the appraisal values are different and a settlement between the department and homestead general lessee is not possible, a third appraisal shall be performed by a disinterested appraiser appointed by the department's appraiser and the homestead general lessee's appraiser; provided that the third appraiser shall act as an arbitrator and determine the final value which shall be between the values of the first and second appraisals. The department shall pay for its own appraiser, the homestead general lessee or legal representative shall pay for the homestead general lessee's own appraiser, and the cost of the third appraiser shall be borne equally.

(c) The restrictions in subsection (a) may be waived by the department if the homestead general lessee wishes to transfer title to the homestead general lease by devise or through the laws of descent.

§513. Approval by department required. Any subdivision of land covered by a homestead general lease and any purchase or sale of improvements erected or installed on lots covered by a homestead general lease shall be subject to the approval of the department.

§514. Receipts from homestead general leasing and other sources. All receipts from homestead general leasing, from fees and charges, from the sale of improvements authorized by this title, rental of units, and any appropriation made for homestead general leasing purposes shall be deposited into the Hawaiian home receipts fund and shall be available for purposes authorized by this title.

§515. Administration. The department shall adopt rules in accordance with chapter 91, Hawaii Revised Statutes, to carry out the purposes of this title.

§516. Repeal date. This title is repealed five years after consent to this Act by the United States or December 31, 1995, whichever shall first occur."

SECTION 3. This Act shall take effect upon the approval of the Governor of the State of Hawaii with the consent of the United States Congress.

(Approved April 22, 1986.)

ACT 76

S.B. NO. 1695-86

A Bill for an Act Relating to Naturopathy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. The purpose of this Act is to clarify the law on the practice of naturopathic medicine, to define terminology, to delete obsolete educational requirements and establish new examination requirements, to provide additional grounds for denial, revocation, and suspension of licenses, to provide grounds to refuse to renew or to deny licenses, and to clarify the process of appeal from a decision of the board of examiners in naturopathy.

This Act is expressly intended to maintain the existing scope of practice of naturopathy and not to expand the existing scope of practice of naturopathy.

Should this Act or any portion of this Act expand the existing scope of practice of naturopathy, this Act or any respective portion of this Act shall be invalid.

SECTION 2. Chapter 455, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§455- Discipline; grounds; proceedings; hearings. (a) The board shall have the power to deny, revoke, suspend, or refuse to renew any license to practice naturopathy applied for or issued by the board in accordance with this chapter, and to fine or otherwise discipline a licensee for any of the following causes:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients;
- (3) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
- (4) Betraying a patient's confidence;
- (5) Making any untruthful and improbable statement in advertising one's naturopathic practice or business;
- (6) False, fraudulent, or deceptive advertising;
- (7) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- (8) Practicing naturopathy while the ability to practice is impaired by alcohol, drug, physical disability, or mental instability;
- (9) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
- (10) Professional misconduct or gross carelessness or manifest incapacity in the practice of naturopathy;
- (11) Conduct or practice contrary to recognized standard of ethics of the naturopathic profession;
- (12) Utilizing medical service or treatment which is inappropriate or unnecessary;
- (13) Submitting to or filing with the board any notice, statement, or other document required under this chapter which is false or untrue or contains any material misstatement of fact;
- (14) Failure to report to the board any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final;
- (15) Using the title "physician" without clearly identifying oneself as being a naturopathic physician; and
- (16) Violation of any provisions of this chapter or rules adopted under this chapter.

(b) In any proceeding to impose disciplinary sanctions against a licensee, the board shall give the person concerned notice and an opportunity for hearing in conformity with chapter 91.

In any such proceeding, the board shall have power to administer oaths, compel the attendance of witnesses and the production of documentary evidence, and examine witnesses.

(c) Any revocation or suspension of a license imposed by the board shall be in accordance with section 92-17(c).

(d) Any fine imposed by the board after a hearing in accordance with chapter 91 shall be no less than \$500 and no more than \$10,000 for each violation."

SECTION 3. Chapter 455, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§455- Appeal to circuit court. An applicant who has been denied a license and every licensee whose license has been suspended, revoked, or refused to be renewed may appeal the board's decision to the circuit court of the circuit in which the applicant or licensee resides in the manner provided in chapter 91."

SECTION 4. Chapter 455, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§455- Remedies or penalties cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 5. Section 455-1, Hawaii Revised Statutes, is amended to read as follows:

"§455-1 [Defined. For the purpose of this chapter the practice of naturopathy means the scientific application of air, light, sunshine, water, earth, cold and heat, electricity, hygiene and dietetics, bio-chemic system, psychotherapy, mechanical movements, manipulations, and appliances, specifically to eliminate toxic conditions from the human body and to promote the quality, quantity and flow of the vital fluids without the use of drugs, aiding nature with natural and congenial agents or means either tangible or intangible to restore and maintain normal functioning; provided, that the practice of naturopathy shall not include the Hawaiian art of lomilomi or massage.] Definitions. As used in this chapter:

"Board" means the board of examiners in naturopathy.

"Department" means the department of commerce and consumer affairs.

"Diagnosis" means using all recognized and accepted physical and laboratory diagnostic procedures including the taking of blood for diagnostic purposes.

"Homeopathic" means minute doses of natural medicine.

"Natural medicine" encompasses substances of botanical, mineral, and animal origin including homeopathic preparations thereof.

"Naturopathic physician" means a person who holds a current license issued under this chapter to practice naturopathy.

"Naturopathy" means the practice of diagnosing, treating, and caring for patients using a system of practice that bases its treatment of physiological functions and abnormal conditions on natural laws governing the human body: utilizing physiological, psychological, and mechanical methods, such as air, water, light, heat, earth, phytotherapy, physiotherapy, mechano-therapy, naturopathic corrections and manipulation, and natural methods or modalities, together with natural medicines, natural processed foods and herbs, and nature's remedies. The practice of naturopathy excludes surgery, application of x-rays, and the prescribing or dispensing of prescription drugs."

SECTION 6. Section 455-2, Hawaii Revised Statutes, is amended to read as follows:

"§455-2 Application for examination; fee. Any person desiring to practice naturopathy shall apply in writing to the [state] board [of examiners in naturopathy] upon a [blank] form prepared and furnished by the board and shall include in the application [such] any facts concerning the applicant as the board shall require. [Each application shall be filed by the applicant and sworn to before an officer authorized to administer oaths.] At the time of the application each applicant shall pay an examination fee to the department [of commerce and consumer affairs which]. If the board contracts with a professional testing agency to prepare, administer, and grade the examination, the payment of the examination fee may be paid directly to the testing agency by the department or the examinee. The examination fee shall not be refunded if the applicant fails to pass the examination.

No person shall be licensed to practice naturopathy unless the person has been duly examined and has passed the examination."

SECTION 7. Section 455-3, Hawaii Revised Statutes, is amended to read as follows:

"§455-3 Qualifications of applicants. Each applicant shall [have had a two-year liberal arts and science course from an accredited college or university and] be a graduate of a [legally chartered] school, university, or college of naturopathy [which requires a course of resident instruction of at least four years of nine months each of actual attendance, and includes in its course of study the subjects hereinafter listed for the minimum hours hereinafter listed:

Anatomy	650
Histology and embryology	130
Chemistry and toxicology	250
Physiology	300
Bacteriology	130
Hygiene and sanitation	130
Pathology	350
Diagnosis	600
Naturopathic theory and practice	900
Obstetrics and gynecology	260
Jurisprudence	50
Clinical practice	400
Biochemistry and dietetics	240
Therapeutics	130
Total	4520

Each applicant shall have attended such school, university, or college for at least ninety per cent of the hours required. The addition of two years of liberal arts and science course shall not apply to persons who, on May 9, 1949, were lawfully licensed to practice naturopathy in the State or to persons holding diplomas or attending legally chartered naturopathic schools, universities, or colleges on such date.] which has received candidacy status with, or has been accredited by, a regional accrediting association of secondary schools and colleges or has been accredited by a national professional accrediting body approved by the board or the Commission on Accreditation of the Council of Naturopathic Medical Education, incorporated in Washington, D.C."

SECTION 8. Section 455-4, Hawaii Revised Statutes, is amended to read as follows:

"§455-4 State board of examiners in naturopathy. The governor shall appoint in the manner prescribed by section 26-34 the [state] board of examiners

in naturopathy, consisting of three members. Each member shall serve until [his] the member's successor is appointed and qualified. Two members of the board shall, before appointment, have been licensed [to practice naturopathy] as a naturopathic physician in the State [under the laws thereof in force at the date of the issuance of the license] and one shall be a public member."

SECTION 9. Section 455-5, Hawaii Revised Statutes, is amended to read as follows:

"§455-5 Organization of the board. The board [of examiners in naturopathy] may elect a chairman and a vice-chairman who shall each serve one year or until a successor is elected. [The board may make such rules as it deems expedient to carry this chapter into effect.] Two members of the board constitute a quorum for the transaction of business. The board shall serve without pay; provided that the expenses of conducting examinations shall be paid out of the office expenses of the department [of commerce and consumer affairs upon vouchers signed by a majority of the board]."

SECTION 10. Section 455-6, Hawaii Revised Statutes, is amended to read as follows:

"§455-6 Powers and authority of the board. The [state] board [of examiners in naturopathy] may:

- (1) Adopt and use a seal to be affixed to all official acts of the board;
- [(2) Revoke or suspend any license issued to any person to practice naturopathy upon any of the following causes:
 - (A) Procuring, or aiding or abetting in procuring, a criminal abortion;
 - (B) Employing any person to solicit patients for him;
 - (C) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
 - (D) Wilfully betraying a professional secret;
 - (E) Making any untruthful and improbable statement in advertising one's naturopathic practice or business;
 - (F) False, fraudulent, or deceptive advertising;
 - (G) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
 - (H) Practicing naturopathic medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
 - (I) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
 - (J) Professional misconduct or gross carelessness or manifest incapacity in the practice of naturopathy;
 - (K) Conduct or practice contrary to recognized standards of ethics of the naturopathic profession;
 - (L) Consistently utilizing medical service or treatment which is inappropriate or unnecessary.

The board may not suspend or revoke a license, however, for any of these causes unless the person accused has been given at least twenty days' notice, in writing, and a public hearing in conformity with chapter 91.

The board may compel the attendance of witnesses and the production of relevant books and papers for the investigation of matters that may come before them and the presiding officer of the board may administer the requisite oaths.

In case any license is revoked for any of the causes named in this section, the holder thereof shall be immediately notified of the revocation, in writing, by the board. Licenses to practice naturopathy may be restored by the board.

The board shall adopt, pursuant to chapters 91 and 92, rules setting forth standards of ethics of the naturopathic profession and may adopt such other rules as are reasonably necessary to implement this chapter.]

- (2) Adopt, amend, or repeal rules in accordance with chapter 91 to carry out the purposes of this chapter;
- (3) Develop standards for licensure;
- (4) Prepare and administer examinations;
- (5) Issue, renew, suspend, and revoke licenses and fine licensees;
- (6) Investigate and conduct hearings regarding any violation of this chapter and any rules of the board;
- (7) Maintain a record of its proceedings; and
- (8) Do all things necessary to carry out the functions, powers, and duties set forth in this chapter."

SECTION 11. Section 455-7, Hawaii Revised Statutes, is amended to read as follows:

"§455-7 Examinations. The [state] board [of examiners in naturopathy] shall conduct examinations not less than twice in each year in the following subjects: anatomy; histology and embryology; chemistry and toxicology; physiology; bacteriology; hygiene and sanitation; pathology; diagnosis or analysis, including clinical, physical, x-ray, symptomatology, dermatology, and mental diseases; naturopathic theory and practice; obstetrics and gynecology; jurisprudence; clinical practice; biochemistry; therapeutics, including physiotherapy, hydrotherapy, electrotherapy, heliotherapy, phytotherapy, orthopedics; and such other subjects as the board may require. [The examination shall be conducted in writing, but it may be supplemented by oral examinations, and by demonstrations or other practical tests as the board may require.] If the applicant receives a minimum score of seventy-five per cent on [all parts] each part of the examination, [he] the applicant shall be considered as having passed the examination. The board shall contract with a professional testing agency to prepare, administer, and grade examinations for licensure. Each applicant shall pass a written examination by the board or an examination prepared by a professional testing agency selected by the board. The board shall provide in its rules the passing scores for any examination given or approved by the board."

SECTION 12. Section 455-8, Hawaii Revised Statutes, is amended to read as follows:

"§455-8 License to practice; biennial registration[.]; continuing education. Licenses to practice naturopathy shall be issued by the board [in such form as the board determines,] to those who qualify according to this chapter. [Naturopathy] Naturopathic physicians licensed under this chapter shall observe and be subject to all state requirements relative to reporting births and all matters pertaining to the public health with equal rights and obligations as physicians, surgeons, and practitioners of other schools of medicine. Every [person holding a license to practice in the State] licensee shall [reregister with] renew the licensee's license on or before December 31 of each odd-numbered year and submit proof to the [state] board [of examiners in naturopathy on or

before December 31 of each odd-numbered year and shall pay a reregistration fee.] that the licensee has met the requirement of continuing education in programs as set and approved by the board in its rules. [The failure to so reregister and pay the reregistration fee constitutes] Failure to renew the license and submit proof of satisfying the required continuing education program requirements on or before December 31 of each odd-numbered year shall automatically constitute a forfeiture of license; provided that the license shall be [reinstated] restored upon written application therefor together with payment of the renewal fee, all delinquent fees, and a penalty fee[.], and upon submission of proof that the person whose license has been forfeited has satisfied all continuing education requirements for the period of time the license has been forfeited."

SECTION 13. Section 455-9, Hawaii Revised Statutes, is amended to read as follows:

"**§455-9 Penalty.** Any person except a licensed [naturopath] naturopathic physician who practices or attempts to practice naturopathy, or any person who buys, sells, or fraudulently obtains any diploma or license to practice naturopathy whether recorded or not, or any person who uses the title "natureopath", "naturopath", or "N.D.", or any word or title to induce the belief that [he] the person is engaged in the practice of naturopathy without complying with this chapter, or any person who violates this chapter, shall be fined a sum of not less than \$500 nor more than \$10,000 for each violation, which sum shall be collected in a civil action brought by the attorney general or the [director of the office of consumer protection] department on behalf of the State."

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 15. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 77

S.B. NO. 1998-86

A Bill for an Act Relating to Investments.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The African Development Bank was established as a multilateral development bank in 1963 to foster economic and social development of its African members. In 1981 Congress enacted Title XII of Public Law 97-35 authorizing United States membership and financial participation in the Bank and authorizing federally regulated financial institutions to invest in the Bank's securities. Today, the Bank's membership includes all African nations except for South Africa, plus the governments of the United States, Canada, Japan, and Western Europe. The African Development Bank is patterned after the International Bank for Reconstruction and Development (the World Bank) and the Inter-American Development Bank. Like them and the Asian Development Bank, the African Development Bank funds its economic development projects through the sale of its obligations in the world's capital markets.

The purpose of this Act is to include the African Development Bank with the International Bank for Reconstruction and Development, the Inter-American Development Bank, and the Asian Development Bank with respect to the qualification of its securities for purchase by certain institutions regulated by the laws of this State.

SECTION 2. Section 88-119, Hawaii Revised Statutes, is amended to read as follows:

"§88-119 Investments. Investments may be made in:

- (1) Real estate loans and mortgages. Obligations (as defined in section 431-286) of any of the following classes:
 - (A) Obligations secured by mortgages of nonprofit corporations desiring to build multi-rental units (ten units or more) subject to control of the government for occupancy by families displaced as a result of government action.
 - (B) Obligations secured by mortgages insured by the federal housing administration.
 - (C) Obligations for the repayment of home loans made under the Servicemen's Readjustment Act of 1944 or under Title II of the National Housing Act.
 - (D) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple, provided that the amount of the obligation shall not at the time investment is made therein exceed seventy-five per cent of the value of the real estate and improvements mortgaged to secure it, except that if the obligation is for an amount of \$75,000 or less, the amount of the obligation shall not exceed eighty per cent of the real estate and improvements mortgaged to secure it, and except that the amount of the obligation at the time investment is made therein may exceed seventy-five per cent but no more than ninety per cent of the value of the real estate and improvements mortgaged to secure it, provided that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than seventy-five per cent of the value of the real estate and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to seventy-five per cent of the market value of the real estate and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees. Real estate shall not be deemed to be encumbered within the meaning of this subparagraph by reason of the existence of any of the restrictions, charges, or claims described in section 431-293(a).
 - (E) Other obligations secured by first mortgages of leasehold interests in improved real estate, provided that (i) each such leasehold interest at such time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures, and (ii) the amount of the obligation shall not at the time investment is made therein exceed

seventy-five per cent of the value of the respective leasehold interest and improvements, except that if the obligation is for an amount of \$75,000 or less, the amount of the obligation shall not exceed eighty per cent of the value of the respective leasehold interest and improvements, and except that the amount of the obligation, at the time investment is made therein, may exceed seventy-five per cent but no more than ninety per cent of the value of the leasehold interest and improvements mortgaged to secure it, provided that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than seventy-five per cent of the value of the leasehold interest and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to seventy-five per cent of the market value of the leasehold interest and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees.

- (F) Obligations for the repayment of home loans guaranteed by the department of Hawaiian home lands pursuant to section 214(b) of the Hawaiian Homes Commission Act, 1920.
- (G) Obligations secured by second mortgages on improved real estate for which the mortgagor procures a second mortgage on the improved real estate for the purpose of acquiring the leaseholder's fee simple interest in the improved real estate, provided that any prior mortgage does not contain provisions which might jeopardize the security position of the retirement system or the borrower's ability to repay the mortgage loan.

The board of trustees may retain such real estate, including leasehold interests therein, as it may acquire by foreclosure of mortgages or in enforcement of security, or as may be conveyed to it in satisfaction of debts previously contracted, provided that all such real estate, other than leasehold interests, shall be sold within five years after acquiring the same, subject to extension by the governor for additional periods not exceeding five years each and all such leasehold interests shall be sold within one year after acquiring the same, subject to extension by the governor for additional periods not exceeding one year each.

- (2) Government obligations, etc. Obligations of any of the following classes:
 - (A) Obligations issued or guaranteed as to principal and interest by the United States or by any state thereof, or by the Dominion of Canada or by any province thereof, or by any municipal or political subdivision or school district of any of the foregoing, provided that principal of and interest on such obligations are payable in currency of the United States.
 - (B) Revenue bonds whether or not permitted by any other provision hereof of the State or any municipal or political subdivision thereof including the board of water supply of the

city and county of Honolulu, and street or improvement district bonds of any district or project in the State.

- (C) Obligations issued or guaranteed by any federal home loan bank including consolidated federal home loan bank obligations, the Home Owner's Loan Corporation, the Federal National Mortgage Association, or the Small Business Administration.
- (3) Corporate obligations. Obligations of any corporation created or existing under the laws of the United States or of any state or district thereof, and qualified under any of the following:
 - (A) Fixed interest-bearing obligations, if the average annual net earnings of the obligor or guarantor available for its fixed charges for a period of five fiscal years next preceding the date of the investment have equalled at least one hundred fifty per cent of its average annual fixed charges applicable to the period and if its net earnings for the last year of the period have equalled at least one hundred fifty per cent of its fixed charges for such year.
 - (B) Fixed interest-bearing obligations secured by assignment of a lease or leases, or the rentals payable thereunder, of real or personal property (including, without limitation, charters of vessels) to a corporation created or existing under the laws of the United States or of any state or district thereof, provided that (i) the fixed rentals assigned shall be sufficient to repay the principal of and interest on the obligation within the unexpired term of the lease, exclusive of the term which may be provided by any option of renewal, and (ii) the net earnings of the corporation shall meet the requirements described in subparagraph (A).
 - (C) Fixed interest-bearing obligations secured by rights or assignment of rights under a contract (including, without limitation, a contract for the sale of products, materials, supplies, or other property, or for the furnishing of transportation or services) with a corporation created or existing under the laws of the United States or of any state or district thereof, provided that (i) the rights securing such obligations shall include the right to receive payments sufficient to repay the principal of and interest on the obligations within the unexpired term of the contract, and (ii) the net earnings of the corporation shall meet the requirements described in subparagraph (A).

As used in this paragraph, the terms "fixed charges" and "net earnings available for fixed charges" shall have the meanings and application ascribed thereto in sections 431-286 and 431-287.

- (4) Preferred and common stocks. Shares of preferred or common stock of any corporation created or existing under the laws of the United States or of any state or district thereof, provided that the book value of the total investment in such stocks shall at no time exceed forty per cent of the total book value of all investments of the system.
- (5) Obligations eligible by law for purchase in the open market by federal reserve banks.

- (6) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, [by] the Inter-American Development Bank [or by], the Asian Development Bank[.], or the African Development Bank.
- (7) Obligations secured by collateral consisting of any of the securities or stock listed above and worth, at the time the investment is made, at least fifteen per cent more than the amount of the respective obligations.
- (8) Insurance company obligations. Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in Hawaii, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities or of real or personal property or interests therein.
- (9) Other securities. Securities and stock in which in the informed opinion of the board of trustees it is prudent to invest funds of the system, whether or not the securities or stock are expressly authorized by or qualify under the foregoing paragraphs, and notwithstanding any limitation of any of the foregoing paragraphs (including paragraph (4)); provided that the total book value of investments under this paragraph shall at no time exceed ten per cent of the total book value of all investments of the system."

SECTION 3. Section 403-128, Hawaii Revised Statutes, is amended to read as follows:

"§403-128 Investments authorized for savings banks, including commercial banks, which also transact the business of a savings bank, and for banks which do a trust business. Subject to sections 403-71, 403-72, and 403-95, there shall be invested in the following classes of securities, and not otherwise, assets of any bank doing a trust business equal in amount to the capital and surplus which would be required under section 406-2 of a trust company having its principal place of business at the location of the head office of such bank, and seventy-five per cent of the savings deposits of any bank. Any part of the remaining twenty-five per cent of the savings deposits of any bank may be similarly invested or may be maintained as reserves on hand or on demand with a reserve bank or banks.

- (1) Interest-bearing bonds, notes, or obligations of the United States, or of those for which the faith of the United States is pledged for the payment of the principal and interest;
- (2) Bonds, warrants, or other obligations of the State or any county of the State; or bonds of any state of the United States, or any county, school district, or incorporated city or town therein having a population of not less than twenty-five thousand inhabitants as shown by the federal census next preceding the date of such investment; provided:
 - (A) The bond, note, or warrant has been issued in compliance with the constitution and laws of any such state;
 - (B) There has been no default in payment of either principal or interest on any of the general obligations of the state, county, school district, city, or town for a period of five years next preceding the date of the investment;

- (C) The bonds, warrants, or other obligations are a general obligation of the [State,] state, county, school district, city, or town issuing the same;
 - (D) No amount in excess of twenty per cent of the aggregate paid-up and unimpaired capital and surplus or allocated aggregate paid-up capital and surplus of the bank shall be invested in any one issue of the bonds, warrants, or other obligations of any one state, or of any one county, school district, or incorporated city, or town of any state.
- (3) Bonds of any corporation which at the time of the investment is incorporated under the laws of the United States or any state or territory thereof or the District of Columbia; provided the total obligation of any one debtor shall not exceed twenty per cent of the aggregate of the capital and surplus of the bank;
 - (4) Street or improvement district bonds of any district or project in the State;
 - (5) Notes or bonds secured by first lien upon improved real estate and improvements thereon in the State, provided, that in each case the amount of the obligation shall not exceed eighty per cent of the appraised market value of the security over and above all taxes due and bonded indebtedness due. The aggregate of the investments shall not exceed seventy-five per cent of the total savings deposits of the bank. A leasehold interest in real property and the improvements thereon shall be considered real estate for the purposes of this paragraph, if at the time of the making of the investment, the expiration date of the lease is at least two years beyond the maturity date of the notes or bonds secured by lien thereon;
 - (6) Promissory notes secured by the pledge of (A) interest-bearing bonds, notes, or obligations of the United States or the State which have a cash market value of at least five per cent more than the amount of the loan; or (B) other personal property which has a cash market value of at least thirty-three and one-third per cent more than the amount of the loan;
 - (7) Real estate, subject to the provisions and restrictions contained in section 403-96;
 - (8) Obligations eligible for rediscount with a federal reserve bank. The aggregate amount of the loans shall not exceed twenty-five per cent of the total savings deposits of the bank;
 - (9) Bonds of the United Kingdom of Great Britain and Ireland, Kingdoms of Belgium, Denmark, Norway, Sweden, Republic of Switzerland, Empire of Japan, and the Dominion of Canada or any province thereof, or bonds of other foreign countries or their political subdivisions or municipalities, as the commissioner in his discretion may approve; provided[,] that the total amount invested under this paragraph shall not exceed twenty per cent of the aggregate paid-up and unimpaired capital and surplus or allocated aggregate paid-up capital and surplus of the bank;
 - (10) Bonds of federal land banks created pursuant to the Federal Farm Loan Act approved July 17, 1916, and bonds issued by any joint-stock land bank, provided, that not more than five per cent of the savings deposits of any bank shall be invested in such bonds;
 - (11) Promissory notes made payable to the order of the bank secured by the pledge and assignment of moneys deposited in any savings bank

or the savings department of any bank as collateral security for the payment thereof. No such loan shall exceed ninety-five per cent of the balance due the depositor;

- (12) Bankers' acceptances of the kinds described in section 13 of the Federal Reserve Act, or bills of exchange of the kind and maturities made eligible by law for purchase in the open market by federal reserve banks, in an amount not exceeding twenty per cent of the total savings deposits of the bank;
- (13) Collateral call loans payable on demand or collateral time loans payable on or before six months from date secured by the pledge of stock or bonds with an actual cash market value of at least one hundred twenty per cent of the amount of the call loans, and in an amount not exceeding twenty per cent of the total savings deposits of the bank;
- (14) (A) Capital stock of the Federal Deposit Insurance Corporation or of any other corporation organized under the laws of the United States for the purpose of guaranteeing bank deposits or otherwise protecting bank depositors; provided that this paragraph shall be deemed to authorize subscription for as well as purchase of the stock, and that any bank desiring to secure the benefit of such federal guaranty insurance may also perform such other acts as may be necessary to secure the benefits, any other provision of law to the contrary notwithstanding; and (B) bonds of the Federal Home Owners' Loan Corporation or any similar bonds of any other agency or entity created or established under the laws of the United States for substantially the same purposes; provided that not more than five per cent of the savings deposits of any bank shall be invested in such bonds;
- (15) Promissory notes secured by life insurance policies up to the unencumbered loan value of such policies;
- (16) Bonds of the Inter-American Development Bank, provided that not more than one per cent of the savings deposits of the bank shall be invested in such bonds;
- (17) Bonds of the International Bank for Reconstruction and Development, provided that not more than one per cent of the savings deposits of the bank shall be invested in the bonds;
- [[(18)]] Obligations issued or guaranteed by the Asian Development Bank, provided that not more than one per cent of the savings deposits of the bank shall be invested in such obligations[.];
- (19) Obligations issued or guaranteed by the African Development Bank, provided that not more than one per cent of the savings deposits of the bank shall be invested in such obligations.
- (20) Capital stock of any captive insurance company which is incorporated under the laws of the United States or any state or territory thereof or the District of Columbia."

SECTION 4. Section 431-284, Hawaii Revised Statutes, is amended to read as follows:

"§431-284 Public obligations. An insurer may invest any of its funds in bonds or other evidences of debt, not in default as to principal or interest, which are valid and legally authorized obligations issued, assumed, or guaranteed by the United States or by any state thereof or by any possession of the United States or by any county, city, town, village, municipality, or district therein or

by any political subdivision thereof or by any civil division or public instrumentality of one or more of the foregoing, if, by statutory or other legal requirements applicable thereto, such obligations are payable, as to both principal and interest;

- (1) From taxes levied or required to be levied upon all taxable property or all taxable income within the jurisdiction of the governmental unit or,
- (2) From adequate special revenues pledged or otherwise appropriated or by law required to be provided for the purpose of such payment, but not including any obligation payable solely out of special assessments on properties benefited by local improvements unless adequate security is evidenced by the ratio of assessment to the value of the property or the obligation is additionally secured by an adequate guaranty fund required by law.

In addition to the foregoing an insurer may invest any of its funds in obligations issued or guaranteed by the Inter-American Development Bank, the International Bank for Reconstruction and Development [or], the Asian Development Bank[.], or the African Development Bank."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

ACT 78

S.B. NO. 2095-86

A Bill for an Act Relating to Enterprise Zones.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER STATE ENTERPRISE ZONES

§ -1 **Purpose.** It is declared that the health, safety, and welfare of the people of this State are dependent upon the continual encouragement, development, growth, and expansion of the private sector, and that there are certain areas in the State that need the particular attention of government to help attract private sector investment. Therefore, it is the purpose of this chapter to stimulate business and industrial growth in areas which would result in neighborhood revitalization of those areas by means of regulatory flexibility and tax incentives.

§ -2 **Definitions.** As used in this chapter:

"Business" means any entity authorized to do business in the State and subject to the state income tax on net corporate rate income, or a public service company subject to tax under chapter 239, or a financial institution subject to tax under chapter 241, or a partnership or sole proprietorship.

"Department" means the department of planning and economic development.

"Director" means the director of planning and economic development.

"Enterprise zone" means an area declared by the governor to be eligible for the benefits of this chapter.

"Taxes due the State" means:

- (1) In the case of a corporation, partnership, or sole proprietorship, income taxes due under chapter 235;
- (2) In the case of a public service company, tax due under chapter 239;
- (3) In the case of a financial institution, tax due under chapter 241.

§ -3 Administration. The department shall administer this chapter and shall have the following powers and duties:

- (1) To establish criteria for determining what areas qualify as enterprise zones. The criteria shall be the minimum required for implementation of the purpose of this chapter;
- (2) To monitor the implementation and operation of this chapter;
- (3) To conduct a continuing evaluation program of enterprise zones;
- (4) To assist counties in obtaining the reduction of rules within enterprise zones;
- (5) To submit annual reports evaluating the effectiveness of the program and any recommendations for legislation to the governor;
- (6) To administer and enforce the rules adopted by the department; and
- (7) To administer this chapter in such a manner that the area to be designated as an enterprise zone will most benefit the area and the State.

§ -4 Enterprise zone designation. (a) The governing body of any county may make written application to the department to have an area declared to be an enterprise zone. The application shall include a description of the location of the area or areas in question, and a general statement identifying proposed local incentives to complement the state and any federal incentives.

(b) The governor shall approve, upon the recommendation of the director, the designation of up to six areas in each county as enterprise zones for a period of twenty years. Not more than four zones shall be designated during the first year after the effective date of this chapter. Any such area shall consist of contiguous United States census tracts in accordance with the 1980 United States Census. Any such area also shall meet at least one of the following criteria:

- (1) Twenty-five per cent or more of the population of the area shall have incomes below eighty per cent of the median income of the county, or
- (2) An unemployment rate 1.5 times the state average.

§ -5 Application review. (a) The department shall review each application upon receipt and shall secure any additional information that the department deems necessary for the purpose of determining whether the area described in the application qualifies to be declared an enterprise zone.

(b) The department shall complete review of the application within sixty days of the last date designated for receipt of an application. After review of the applications, the department shall recommend to the governor within thirty days those applications with the greatest potential for accomplishing the purpose of this chapter. If an application is denied, the governing body shall be informed of that fact together with the reasons for the denial.

(c) If any portion of an area designated as an enterprise zone under this chapter is included in an area designated as an enterprise zone by an agency of

the federal government, the area designated under this chapter shall be enlarged to include the area designated by the federal agency.

§ -6 Sale or lease of public land. Upon designation of an area as an enterprise zone, the State and any agency of a political subdivision that own any land within the enterprise zone may make available for sale, or lease, under appropriate law, all land within the enterprise zone not designated or targeted for some public use, with the condition that it be developed.

§ -7 Government assistance; prohibition. There shall be no duplication of existing state tax incentives to qualified business firms which locate in an enterprise zone.

§ -8 Rules. Rules prescribing procedures effectuating the purpose of this chapter shall be adopted by the department pursuant to chapter 91.

§ -9 Eligibility. (a) Any business firm may be designated a "qualified business" for purposes of this chapter if the business:

- (1) Begins the operation of a trade or business within an enterprise zone;
 - (2) During each taxable year has at least fifty per cent of the business' gross receipts attributable to the active conduct of trade or business within the enterprise zone; and
 - (3) Forty per cent or more of the employees employed at the business' establishment or establishments located within the enterprise zone meet the criteria set forth in section -4(b)(1) prior to employment.
- (b) A business also may be designated a "qualified business" for purposes of this chapter if the business:
- (1) Is actively engaged in the conduct of a trade or business in an area immediately prior to an area being designated an enterprise zone;
 - (2) Meets the requirements of subsection (a)(2); and
 - (3) Increases the average number of full-time employees employed at the business' establishment or establishments located within the enterprise zone by at least ten per cent over the preceding year's employment with not less than forty per cent of the increase being employees meeting the criteria of section -4(b)(1) prior to employment.

(c) After designation as an enterprise zone, each qualified business firm in the zone shall submit annually to the department a statement requesting one or more of the tax incentives provided in this chapter. The statement shall be accompanied by an approved form supplied by the department and completed by an independent certified public accountant licensed by the State which states that the business firm meets the definition of a "qualified business". A copy of the statement submitted by each business to the department shall be forwarded to the governing body of the county in which the enterprise zone is located.

(d) The form referred to in subsection (c) shall be prima facie evidence of the eligibility of a business for the purposes of this section.

§ -10 State business tax credit. (a) The department shall certify annually to the department of taxation the applicability of the tax credit provided in this chapter for a qualified business against any taxes due the State. Except for the general excise tax, the credit shall be eighty per cent of the tax due for the first tax year, seventy per cent of the tax due for the second tax year, sixty per cent of the tax due for the third year, fifty per cent of the tax due the fourth year, forty per cent of the tax due the fifth year, thirty per cent of the tax due the sixth year,

and twenty per cent of the tax due the seventh year. Any tax credit not usable shall not be applied to future tax years.

(b) When a partnership is eligible for a tax credit under this section, each partner shall be eligible for the tax credit provided for in this section on the partner's individual income tax in proportion to the amount of income received by the partner from the partnership. Any qualified business having taxable income from business activity, both within and without the enterprise zone, shall allocate and apportion its taxable income attributable to the conduct of business. Tax credits provided for in this section shall only apply to taxable income of a qualified business attributable to the conduct of business within the enterprise zone.

(c) In addition to any tax credit authorized under this section, any qualified business shall be entitled to a tax credit against any taxes due the State in an amount equal to a percentage of unemployment taxes paid. The amount of the credit shall be equal to eighty per cent of the unemployment taxes paid during the first year, seventy per cent of the taxes paid during the second year, sixty per cent of the taxes paid during the third year, fifty per cent of the taxes paid during the fourth year, forty per cent of the taxes paid during the fifth year, thirty per cent of the taxes paid during the sixth year, and twenty per cent of the taxes paid during the seventh year.

(d) Tax credits provided for in subsection (c) shall only apply to the unemployment tax paid on employees employed at the qualified business' establishment or establishments located within the enterprise zone. Any tax credit not usable shall not be applied to future tax years.

§ -11 State general excise tax exemptions. The department shall certify annually to the department of taxation that any qualified business is exempt from the payment of general excise taxes on the gross proceeds from all items sold by a qualified business in the enterprise zone. The exemption shall extend for a period not to exceed seven years.

§ -12 Local incentives. (a) In applying for designation as an enterprise zone, the applying county may propose local incentives, including, but not limited to:

- (1) Reduction of permit fees;
- (2) Reduction of user fees; and
- (3) Reduction of real property taxes.

(b) The application also may contain proposals for regulatory flexibility, including, but not limited to:

- (1) Special zoning districts;
- (2) Permit process reform;
- (3) Exemptions from local ordinances; and
- (4) Other public incentives proposed in the locality's application, which shall be binding upon the locality upon designation of the enterprise zone.

§ -13 Termination of enterprise zone. Upon designation of an area as an enterprise zone, the proposals for regulatory flexibility, tax incentives, and other public incentives specified in this chapter shall be binding upon the county governing body to the extent and for the period of time specified in the application for zone designation. If the county governing body is unable or unwilling to provide any of the incentives set forth in section -12 or other incentives acceptable to the department, the enterprise zone shall terminate. Qualified businesses located in the enterprise zone shall be eligible to receive the state tax incentives provided by this chapter even though the zone designation

ACT 79

has terminated. No business may become a qualified business after the date of zone termination. The county governing body may amend its application with the approval of the department; provided the county governing body proposes an incentive equal to or superior to the unamended application."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

ACT 79

S.B. NO. 2126-86

A Bill for an Act Relating to Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-152, Hawaii Revised Statutes, is amended to read as follows:

"[] §346-152[]] **Exclusions; exemptions.** (a) Nothing in this part shall be construed to include:

- (1) [An individual] A person caring for [a related child] children related to the caregiver by blood or marriage;
- (2) [A neighbor or friend caring for no more than two children, if the person provides care for] A person, group of persons, or facility caring for a child less than three hours a day but not more than two times a week;
- (3) A kindergarten, school, or program licensed by another department;
- (4) A program which provides exclusively for a specialized training or skill of eligible pupils in public and private schools through age seventeen, including but not limited to programs providing such activities as athletic sports, foreign language, the Hawaiian language, dance, drama, music, or martial arts; and
- (5) A multi-service organization or community association duly incorporated under the laws of the State which operates for the purpose of promoting recreation, health, safety, or social group functions for eligible pupils in public and private schools through age seventeen.

(b) Staff members of programs taught solely in Hawaiian which promote fluency in the Hawaiian language shall be exempt from any regulations requiring academic training or certification."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

ACT 80

S.B. NO. 2268-86

A Bill for an Act Relating to Attorneys' Fees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that article XI, section 9, of the Constitution of the State of Hawaii has given the public standing to use the

courts to enforce laws intended to protect the environment. However, the legislature finds that the public has rarely used this right and that there have been increasing numbers of after-the-fact permits for illegal private development. Although the legislature notes that some government agencies are having difficulty with the full and timely enforcement of permit requirements against private parties, after-the-fact permits are not a desirable form of permit streamlining. For these reasons, the legislature concludes that to improve the implementation of laws to protect health, environmental quality, and natural resources, the impediment of high legal costs must be reduced for public interest groups by allowing the award of attorneys' fees, in cases involving illegal development by private parties.

SECTION 2. Chapter 607, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§607- Actions based on failure to obtain government permit or approvals; attorney's fees and costs. (a) As used in this section, "development" includes:

- (1) The placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;
- (2) The grading, removing, dredging, mining, pumping, or extraction of any liquid or solid materials; or
- (3) The construction or enlargement of any structure requiring a discretionary permit.

(b) As used in this section, "development" does not include:

- (1) The transfer of title, easements, covenants, or other rights in structures or land;
- (2) The repair and maintenance of existing structures;
- (3) The placement of a portable structure costing less than \$500; or
- (4) The construction of a structure which only required a building permit and for which a building permit could be granted without any discretionary agency permit or approval.

(c) For purposes of this section, the permits or approvals required by law shall include compliance with the requirements for permits or approvals established by chapters 6E, 46, 54, 171, 176D, 177, 180C, 183, 184, 195, 195D, 205, 205A, 266, 342, and 343 and ordinances or rules adopted pursuant thereto under chapter 91.

(d) For purposes of this section, compliance with the procedural requirements established by chapter 343 and rules pursuant to chapter 343 constitute a discretionary agency approval for development.

(e) In any civil action in this State where a private party sues for injunctive relief against another private party who has been or is undertaking any development without obtaining all permits or approvals required by law from government agencies:

- (1) The court may award reasonable attorneys' fees and costs of the suit to the prevailing party.
- (2) The court shall award reasonable attorneys' fees and costs of the suit to the prevailing party if the party bringing the civil action:
 - (A) Provides written notice, not less than forty days prior to the filing of the civil action, of any violation of a requirement for a permit or approval to:
 - (i) The government agency responsible for issuing the permit or approval which is the subject of the civil action;

- (ii) The party undertaking the development without the required permit or approval; and
- (iii) Any party who has an interest in the property at the development site recorded at the bureau of conveyances.
- (B) Posts a bond in the amount of \$2,500 to pay the attorneys' fees and costs provided for under this section if the party undertaking the development prevails.
- (3) Notwithstanding any provision to the contrary in this section, the court shall not award attorneys' fees and costs to any party if the party undertaking the development without the required permit or approval failed to obtain the permit or approval due to reliance in good faith upon a written statement, prepared prior to the suit on the development, by the government agency responsible for issuing the permit or approval which is the subject of the civil action, that the permit or approval was not required to commence the development. The party undertaking the development shall provide a copy of the written statement to the party bringing the civil action not more than thirty days after receiving the written notice of any violation of a requirement for a permit or approval.
- (4) Notwithstanding any provision to the contrary in this section, the court shall not award attorney's fees and costs to any party if the party undertaking the development applies for the permit or approval which is the subject of the civil action within thirty days after receiving the written notice of any violation of a requirement for a permit or approval and the party undertaking the development shall cease all work until the permit or approval is granted."

SECTION 3. This Act shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun and finally adjudicated, before its effective date.

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon approval.

(Approved April 22, 1986.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

ACT 81

S.B. NO. 2277-86

A Bill for an Act Relating to the Protection of Adult Wards.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that there is a need to protect incapacitated persons from past and current abuses of sterilization procedures. The legislature also finds that adult persons who are wards have an equal right to choose to be sterilized when informed assent is possible or, if informed assent is not possible, when sterilization is in the best interests of the ward, without consideration of how such sterilization would benefit others. Each ward under consideration, to the extent of the person's ability to comprehend, must be afforded the opportunity to discuss and agree or disagree to the sterilization procedure. However, adult persons who are wards have an equal right to be

protected against sterilization when it is done against the ward's will or when the procedure serves merely the interests of others. It is the intent of the legislature that because of the significance of this procedure, in no event shall wards be sterilized unless alternative contraceptive measures shall have been duly considered and deemed impractical or inappropriate. Therefore, it is the purpose of this Act to establish the procedures for sterilization of adult wards.

SECTION 2. Chapter 560, Hawaii Revised Statutes, is amended by adding a new part to article V to be appropriately designated and to read as follows:

**"PART . INCAPACITATED PERSONS
STERILIZATION RIGHTS**

§560:5- Definitions. As used in this part:

"Adult" means an individual who has attained the age of eighteen years.

"Court" means any duly constituted court.

"Incapacitated person" means a person as defined in section 560:5-101(2).

"Informed assent" means a process by which a ward who lacks the legal capacity to consent to sterilization is given a fair opportunity to acknowledge the nature, risks, and consequences of the procedure and, insofar as the ward is able to, indicates willingness and choice to undergo sterilization.

"Interested person" means an interested, responsible adult, including but not limited to a public official, the legal guardian, spouse, parent, legal counsel, adult child, or next of kin of a person allegedly mentally ill, mentally deficient, or as otherwise provided in this chapter.

"Judge" means any judge of the family court or per diem judge appointed by the chief justice as provided in section 604-1.¹

"Licensed physician" means any person who is licensed to practice medicine in Hawaii under chapter 453 or 460.

"Records" include, but is not limited to, all written clinical information, observations and reports, or fiscal documents relating to a ward who has undergone or is about to undergo sterilization and which is related to the sterilization.

"Sterilization" means any medical or surgical operation or procedure which can be expected to result in a patient's permanent inability to reproduce.

"Ward" means an incapacitated person for whom the family court has appointed, pursuant to sections 560:5-303 and 560:5-304, a guardian of the person of the incapacitated person and who, because of the terms of the family court's order of appointment of the guardian, lacks the legal power to consent to sterilization.

§560:5- Sterilization of wards. Persons who are wards and who have attained the age of eighteen years have the legal right to be sterilized when at least thirty days, but not more than one hundred eighty days, have passed following the entry of an order providing for sterilization. In no event, however, shall wards be sterilized without court approval in accordance with this part unless sterilization occurs as part of emergency medical treatment.

§560:5- Initiation of proceeding. The ward or any interested person may file a petition with the family court, in the circuit in which the ward resides, alleging that the ward meets the requirements for sterilization.

§560:5- Appointment of guardian ad litem. The court, upon receipt of the petition, shall appoint a guardian ad litem to represent the ward.

§560:5- Notice. The court shall order that the petition be served personally upon the ward, the guardian, and the guardian ad litem for the ward, and such other persons as the court may designate.

§560:5- Referral to reproductive rights committee. The court shall refer the petition to the reproductive rights committee for review and recommendation.

§560:5- Hearing. (a) The court shall set a hearing on the petition upon receipt of the recommendations of the reproductive rights committee and shall order that notice of the time and place of hearing be provided to the ward, the guardian, and the guardian ad litem for the ward and such other persons as the court may designate.

(b) The ward is entitled to be present at the hearing, and to see and hear all evidence bearing on the petition. The ward is entitled to be represented by an attorney, in addition to the court-appointed guardian ad litem, to present evidence, to cross examine witnesses including any person submitting a report, and members of the reproductive rights committee. The ward may be absent from the hearing if the ward is unwilling or is unable to participate.

§560:5- Criteria. (a) The ward may be sterilized if the court finds by clear and convincing evidence that the ward is functionally capable of giving and withholding informed assent to the proposed sterilization and has given informed assent to the proposed sterilization, or that the ward is functionally incapable of giving or withholding informed assent but sterilization is in the best interests of the ward.

(b) The ward assents to sterilization if the ward manifests an uncoerced willingness to undergo sterilization after being fully informed of the nature, risks, consequences, and alternatives to the procedure. A ward who lacks the capacity to understand the nature, risks, consequences, and alternatives to the procedure, or who lacks the capacity to manifest an uncoerced willingness or unwillingness to sterilization cannot assent to the procedure. To determine whether the ward is capable of giving informed assent, the court shall consider whether the ward understands and appreciates:

- (1) The causal relationship between sexual intercourse and pregnancy or parenthood;
- (2) The causal relationship between sterilization and the impossibility of pregnancy or parenthood;
- (3) The nature of the sterilization operation including the pain, discomfort, and risks of the procedure;
- (4) The probable permanency and irreversibility of the sterilization procedure;
- (5) All medically approved alternatives to sterilization;
- (6) The consequences of initiating pregnancy or becoming pregnant, mothering or fathering a child, and becoming a parent; and
- (7) The power to change one's mind about being sterilized at any time before the procedure is performed.

To assure the adequacy of the ward's informed assent, evidence shall be presented showing that the ward received appropriate counseling from the physician who will perform the sterilization and at least one other qualified independent counselor such as a social worker with a master's degree, a clinical nurse specialist, or a licensed psychologist or psychiatrist. The counseling shall cover the benefits or advantages to sterilization and conversely the losses and disadvantages of sterilization including the feelings, values, and life-style changes attendant with sterilization.

Persons who attest in court as to the soundness of informed assent shall comment on and assess the ward's understanding of each issue and shall comment on and assess the degree to which the prospective patient expresses an uncoerced willingness to accept each risk and consequence. Any reservations or resistance expressed or otherwise evidenced by the prospective patient shall be disclosed to the court.

(c) The ward may be sterilized if the court finds by clear and convincing evidence that:

- (1) The ward is functionally incapable of giving or withholding informed assent and that the incapacity is not likely to change in the foreseeable future; and
- (2) Sterilization is in the best interest of the ward.

(d) To determine whether sterilization is in the best interest of the ward the court shall consider:

- (1) Whether the ward is likely to be fertile. Fertility may be presumed if the medical evidence indicates normal development of the sexual organs, and the evidence does not otherwise raise doubts about fertility;
- (2) Whether the ward will suffer severe physical or psychological harm if the ward were to parent a child and, conversely, whether the ward will suffer severe physical or psychological harm from the sterilization;
- (3) The likelihood that the ward will engage in sexual intercourse;
- (4) The feasibility and medical advisability of less restrictive alternatives to sterilization both at the present time and under foreseeable future circumstances;
- (5) Whether scientific or medical advances may occur within the foreseeable future which will make possible the improvement of the ward's condition or result in less drastic contraceptive measures; and
- (6) Whether the petitioners are seeking sterilization in good faith, their primary concern being for the best interest of the ward rather than their own or the public's convenience.

§560:5- Appeals. Upon entry of the decree the court shall stay the effect of a decision allowing sterilization until the expiration of time within which to file an appeal pursuant to the Hawaii Rules of Civil Procedure.

§560:5- Reproductive rights committee. (a) To carry out the purposes of this part, the reproductive rights committee is created. The committee shall consist of not less than five nor more than seven persons appointed by the governor. The state planning council for developmental disabilities shall provide the governor with a list of nominees. The governor shall not be limited to the nominees provided in appointing the members of the committee. The committee shall include persons from at least the following disciplines:

- (1) Law;
- (2) Medicine;
- (3) Theological or philosophical ethics;
- (4) Social work; and
- (5) Psychology.

(b) The committee shall review and make recommendations to the court on all petitions for sterilization. In making its recommendation to the court the committee shall investigate and determine whether the ward is capable of giving informed assent and, if not, whether sterilization is in the best interests of the

ward. The committee shall consider the criteria set forth in sections 560:5- to 560:5- , in determining whether the ward is capable of providing informed assent or whether sterilization is in the best interest of the ward.

(c) The committee or designated members of the committee may interview or request written statements from the ward, physicians, relatives, concerned individuals, and others who, in their judgment, possess relevant information concerning the petition for sterilization. Conversely, the ward, the guardian ad litem, the petitioner, or any other person may request to speak to the committee or submit a written statement to the committee concerning the proposed sterilization.

(d) The committee shall submit a report in writing to the court containing its recommendation together with supporting documentation. Committee members who do not concur with the majority recommendation shall also submit a report in writing to the court detailing the basis for their dissent.

§560:5- Confidentiality of and access to records. (a) All wards affected by this part shall be informed of their right to and be entitled to copies of all portions of any records relating to the sterilization or proposed sterilization.

(b) All records relating to sterilization or proposed sterilization of the ward shall be confidential and shall not be released to third parties except in the following circumstances:

- (1) When the ward or guardian of the ward has signed a written release for the specific information; or
- (2) When the ward or guardian designates a third party as either a payer or copayer for the sterilization and consents to release information which is necessary to establish reimbursement eligibility.

(c) A charge, not to exceed the actual cost of duplication, may be assessed for copies of any records that need to be reproduced.

(d) When records are released to a third party, it shall be unlawful for the party to disclose any part of the record that contains personally identifiable information without the written consent of the person who is the subject of the record. The release of the record to the third party shall be accompanied by the following statement: "This information has been disclosed to you from records whose confidentiality is protected by the state law which limits disclosure of personally identifiable information to additional parties without the express written consent of the subject of the record".

(e) Violations of this section shall be subject to action under section 571-81.

§560:5- No liability arising from sterilization; exception. No physician, hospital, members of the reproductive rights committee, the State of Hawaii or its agents, nor any other person acting in accordance with this part shall be liable to anyone, either civilly or criminally, for having performed or authorized the performance of the individual sterilization, except for liability of the hospital or physician caused by the negligent performance of the sterilization, in accordance with laws covering such negligence."

SECTION 3. Section 560:5-304, Hawaii Revised Statutes, is amended to read as follows:

"§560:5-304 Finding; order of appointment. The family court may appoint any competent person, whose appointment would be in the best interest of the alleged incapacitated person, as a guardian of the person as requested if it is satisfied that the person for whom a guardian is sought is incapacitated and

that the appointment is necessary or desirable as a means of providing continuing care and supervision of the person of the incapacitated person[.], except that unless otherwise specified in the court order, guardians shall not have the power to consent to the sterilization of their wards. The order of appointment may limit or otherwise modify the power of the guardian of the person or may specify areas in which the ward shall retain the power to make and carry out decisions concerning his person. Alternatively, the family court may dismiss the proceeding or enter any other appropriate order.”

SECTION 4. The reproductive rights committee shall develop and implement appropriate procedures to carry out the intent of the Act.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

Note

1. Should read “604-2”.

ACT 82

S.B. NO. 2295-86

A Bill for an Act Relating to Tort Actions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 663-1.7, Hawaii Revised Statutes, is amended to read as follows:

“§663-1.7 Professional society; peer review committee; hospital or clinic quality assurance committee; no liability; exceptions. (a) As used in this section, “professional society” or “society” means any association or other organization of persons engaged in the same profession or occupation, or specialty within a profession or occupation, a primary purpose of which is to maintain the professional standards of the persons engaged in its profession or occupation or specialty practice; [and] “peer review committee” [or “committee”] means a committee created by a professional society, or by the medical or administrative staff of a licensed hospital[.] or clinic, whose function is to maintain the professional standards established by the bylaws of the society, [or the] hospital, or clinic of the persons engaged in its profession or occupation, or area of specialty practice, or in its hospital[.] or clinic; and “hospital or clinic quality assurance committee” means an interdisciplinary committee established by the board of trustees or administrative staff of a licensed hospital or clinic, whose function is to monitor and evaluate patient care, and to identify, study, and correct deficiencies and seek improvements in the patient care delivery process.

(b) There shall be no civil liability for any member of a peer review committee or hospital or clinic quality assurance committee for any acts done in the¹ furtherance of the purpose for which the peer review committee or hospital or clinic quality assurance committee was established; provided that:

- (1) The member was authorized to perform in the manner in which [he] the member did; and
- (2) The member acted without malice [after having made a reasonable effort to ascertain the truth of the facts upon which he acted].

(c) This section shall not be construed to confer immunity from liability upon any professional society [or], hospital, or clinic, nor shall it affect the immunity of any shareholder or officer of a professional corporation; provided[, however,] there shall be no civil liability for any professional society or hospital or clinic in communicating any conclusions reached by one of its peer review committees or hospital or clinic quality assurance committees relating to the conformance with professional standards of any person engaged in the profession or occupation of which the membership of the communicating professional society consists, to a peer review committee or hospital or clinic quality assurance committee of another professional society or hospital or clinic whose membership is comprised of persons engaged in the same profession or occupation, or to a duly constituted governmental board or commission or authority having as one of its duties the licensing of persons engaged in that same profession or to a government agency charged with the responsibility for administering a program of medical assistance in which services are provided by private practitioners.

(d) The final peer review committee of a medical society, hospital, or clinic, or other health care facility shall report in writing every adverse decision made by it to the department of commerce and consumer affairs[.]; provided that final peer review committee means that body whose actions are final with respect to a particular case; and provided further that in any case where there are levels of review nationally or internationally, the final peer review committee for the purposes of this subsection shall be the final committee in this State. The hospital or clinic quality assurance committee shall report in writing to the department of commerce and consumer affairs any information which identifies patient care by any person engaged in a profession or occupation which does not meet hospital or clinic standards and which results in disciplinary action unless such information is immediately transmitted to an established peer review committee. The report shall be filed within thirty business days following an adverse decision. The report shall contain information on the nature of the action, its date, the reasons for, and the circumstances surrounding the action; provided that specific patient identifiers shall be expunged. If a potential adverse decision was superseded by resignation or other voluntary action that was requested or bargained for in lieu of medical disciplinary action, the report shall so state. The department shall prescribe forms for the submission of reports required by this section. Failure to comply with this subsection shall be a violation punishable by a fine of not less than \$100 for each member of the committee."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

Note

1. Should be underscored.

ACT 83

S.B. NO. 2315-86

A Bill for an Act Relating to Settlement of Claims.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 41-6, Hawaii Revised Statutes, is amended to read as follows:

"§41-6 Insurance on public vehicles. Vehicles owned by the State or in the custody and use of any department may be self-insured or insured by purchased insurance against public liability[, in limits not less than \$100,000/300,000, and against property damage in limits not less than \$10,000.] in compliance with chapter 294. The insurance may be effected by the department or other organization having custody or control of the vehicle, or, with the acquiescence of the head of the department or other organization, the vehicle may be insured on a complete or excess coverage basis under a [fleet liability] comprehensive automobile liability insurance policy entered into by the [State.] risk manager. If the vehicles are self-insured, claims for which the State is liable under chapter 294 may be settled and paid by the risk manager or the risk manager's designee from the state insurance fund, notwithstanding the provisions of chapter 662. Any [such] purchased state [fleet liability] comprehensive automobile liability insurance policy shall be administered by and be subject to the control of the [comptroller.] risk manager."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

ACT 84

S.B. NO. 2319-86

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaiian Homes Commission Act, 1920, as amended, is amended by adding a new section to be appropriately designated and to read as follows:

"§ . Development by contract; development by project developer agreement. (a) Notwithstanding any law to the contrary, the department is authorized to enter into and carry out contracts to develop available lands for homestead, commercial, and multi-purpose projects; provided that the department shall not be subject to the requirements of competitive bidding if no state funds are to be used in the development of the project.

(b) Notwithstanding any law to the contrary, the department is authorized to enter into project developer agreements with qualified developers for, or in connection with, any homestead, commercial, or multi-purpose project, or portion of any project; provided that prior to entering into a project developer agreement with a developer, the department shall:

- (1) Set by appraisal the minimum rental of the lands to be disposed of on the basis of the fair market value of the lands;
- (2) Give notice of the proposed disposition in accordance with applicable procedures and requirements of section 171-60(a)(3), Hawaii Revised Statutes;
- (3) Establish reasonable criteria for the selection of the private developer; and

- (4) Determine within forty-five days of the last day for filing applications the applicant or applicants who meet the criteria for selection, and notify all applicants of its determination within seven days of such determination. If only one applicant meets the criteria for selection as the developer, the department then may negotiate the details of the project developer agreement with the developer; provided that the terms of the project developer agreement shall not be less than those proposed by the developer in the application. If two or more applicants meet the criteria for selection, the department shall consider all of the relevant facts of the disposition or contract, the proposals submitted by each applicant, and the experience and financial capability of each applicant and, within forty-five days from the date of selection of the applicants that met the criteria, shall select the applicant who submitted the best proposal. The department then may negotiate the details of the disposition with the developer, including providing benefits to promote native Hawaiian socio-economic advancement; provided that the terms of the project developer agreement shall not be less than those proposed by the developer in the application.
- (c) Any project developer agreement entered into pursuant to this section shall include the following terms and conditions, wherever appropriate:
 - (1) A requirement that the developer file with the department a good and sufficient bond conditioned upon the full and faithful performance of all the terms, covenants, and conditions of the project developer agreement;
 - (2) The use or uses to which the land will be put;
 - (3) The dates on which the developer must submit to the department for approval preliminary plans and final plans and specifications for the total development. No construction shall commence until the department has approved the final plans and specifications; provided that construction on an incremental basis may be permitted by the department;
 - (4) The date of completion of the total development, including the date of completion of any permitted incremental development;
 - (5) The minimum requirements for off-site and on-site improvements that the developer must install, construct, and complete by the date of completion of the total development. The department may permit incremental development and establish the minimum requirements for off-site and on-site improvements that must be installed, constructed, and completed prior to the date of completion of the total development; and
 - (6) Any other terms and conditions deemed necessary by the department to protect the interests of the State and the department.
- (d) Any project developer agreement entered into pursuant to this section may provide for options for renewal of the term of the project developer agreement; provided that the term of any one project developer agreement shall not exceed sixty-five years; and provided further that any lands disposed of under a project developer agreement shall be subject to withdrawal at any time during the term of the agreement, with reasonable notice; and provided that the rental shall be reduced in proportion to the value of the portion withdrawn and the developer shall be entitled to receive from the department the proportionate value of the developer's permanent improvements so taken in the proportion that they bear to the unexpired term of the agreement, or the developer, in the

alternative, may remove and relocate the developer's improvements to the remainder of the lands occupied by the developer.

(e) The project developer agreement may permit the developer, after the developer has completed construction of any required off-site improvement, to assign or sublease with the department's approval portions of the leased lands in which the construction of any required off-site improvement has been completed to a purchaser or sublessee who shall assume the obligations of the developer relative to the parcel being assigned or subleased, including the construction of any on-site improvement. The department may permit a developer to share in the lease rent from the assigned lease for a fixed period in order to recover costs and profit.

(f) Whenever the department enters into a project developer agreement to develop a homestead project, the department shall provide for the purchase of the completed project or that portion of a completed project developed for disposition to native Hawaiians, and shall dispose of the lands in accordance with this Act; provided that the project developer agreement shall not encumber any existing homestead lease in the project area.

(g) As used in this section, the following words and terms shall have the following meanings unless the context indicates another or different meaning or intent:

"Commercial project" means a project or that portion of a multi-purpose project, including single-family or multiple-family residential, agricultural, pastoral, aquacultural, industrial, business, hotel and resort, or other commercial uses designed and intended to generate revenues as authorized by this Act;

"Developer" means any person, partnership, cooperative, firm, nonprofit or for-profit corporation, or public agency possessing the competence, expertise, experience, and resources, including financial, personal, and tangible resources, required to carry out a project;

"Homestead project" means a project or that portion of a multi-purpose project, including residential, agricultural, pastoral, or aquacultural uses designed and intended for disposition to native Hawaiians under this Act; provided that this term shall also include community facilities for homestead areas.

"Multi-purpose project" means a combination of a commercial project and a homestead project;

"Project" means a specific undertaking to develop, construct, reconstruct, rehabilitate, renovate, or to otherwise improve or enhance land or real property;

"Project developer agreement" means any lease, sublease, conditional leasing agreement, disposition agreement, financing agreement, or other agreement or combination of agreement, entered into under this section by the department, for the purpose of developing one or more projects.

(h) The department is authorized to adopt rules in accordance with chapter 91, Hawaii Revised Statutes, to implement and carry out the purposes of this section."

SECTION 2. The provisions of this amendment are declared to be severable, and if any subsection, sentence, clause, or phrase, or the application thereof to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect then, that portion only shall take effect upon the granting of consent by the United States and the effectiveness of the remainder of this amendment or the application thereof shall not be affected.

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 85

S.B. NO. 2320-86

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 214, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (b) to read as follows:

- “(b) In addition the department may:
- (1) Use moneys in the development and operating funds, with the prior approval of the governor, to match federal, state, or county funds available for the same purposes and to that end, enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure, and do and perform such other acts and things, as may be necessary or required, as a condition to securing matching funds for such projects or works;
 - (2) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof, up to a maximum of \$50,000 to lessees in accordance with section 215;
 - (3) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof to a cooperative association in accordance with section 215;
 - (4) Permit and approve loans made to lessees by government agencies or private lending institutions, where the department assures the payment of such loans; provided that upon receipt of notice of default in the payment of such assured loans, the department may, upon failure of the lessee to cure the default within sixty days, cancel the lease and pay the outstanding balance in full or may permit the new lessee to assume the outstanding debt; and provided further that the department shall reserve the following rights: the right of succession to the lessee's interest and assumption of the contract of loan; the right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights enumerated at the time of assurance necessary to protect the monetary and other interests of the department;
 - (5) Secure, pledge, or otherwise guarantee the repayment of moneys borrowed by the department from government agencies or private lending institutions and pay the interim interest or advances required for loans; provided that the State's liability, contingent or otherwise, either on moneys borrowed by the department or on departmental guarantees of loans made to lessees under this paragraph and paragraphs (2), (3), and (4) of this section, shall at no time exceed \$21,000,000;

- (6) Use available loan fund moneys or other funds specifically available for such purposes as cash guarantees when required by lending agencies;
- (7) Exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by government agencies or by private lending institutions to lessees the repayment of which is assured by the department. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment, or otherwise underwriting, of any loan, the protecting of security interest, and after foreclosures, the repairing, renovating, or modernization and sale of property covered by the loan and mortgage[.];
- (8) Pledge receivables of loan accounts outstanding as collateral to secure loans made by government agencies or private lending institutions to the department, the proceeds of which shall be used by the department to make new loans to lessees or to finance the development of available lands for purposes permitted by this Act; provided that any loan agreement entered into under this paragraph by the department shall include a provision that the money borrowed by the department is not secured directly or indirectly by the full faith and credit or the general credit of the State or by any revenues or taxes of the State other than the receivables specifically pledged to repay the loan; provided further that in making loans or developing available lands out of money borrowed under this paragraph, the department may establish, revise, charge, and collect fees, premiums, and charges as necessary, reasonable, or convenient, to assure repayment of the funds borrowed, and the fees, premiums, and charges shall be deposited into the Hawaiian home trust fund; and provided further that no moneys of the Hawaiian home loan fund may be pledged as security under this paragraph; and
- (9) Notwithstanding any other provisions of this Act to the contrary, transfer into the Hawaiian home trust fund any available and unpledged moneys from any loan funds, the Hawaiian loan guarantee fund, or any fund or account succeeding thereto, except the Hawaiian home loan fund, for use as cash guarantees or reserves when required by a federal agency authorized to insure or guarantee loans to lessees."

SECTION 2. The provisions of this amendment are declared to be severable, and if any section, sentence, clause or phrase, or the application thereof to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect then, that portion only shall take effect upon the granting of consent by the United States and the effectiveness of the remainder of this amendment or the application thereof shall not be affected.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 237-24, Hawaii Revised Statutes, is amended to read as follows:

"§237-24 Amounts not taxable. This chapter shall not apply to the following amounts:

- (1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured;
- (2) Amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract;
- (3) Amounts received under any accident insurance or health insurance policy or contract or under workers' compensation acts or employers' liability acts, as compensation for personal injuries, death, or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of the personal injuries, death, or sickness;
- (4) The value of all property of every kind and sort acquired by gift, bequest, or devise, and the value of all property acquired by descent or inheritance;
- (5) Amounts received by any person as compensatory damages for any tort injury to him, or to his character reputation, or received as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties (provided that amounts received as punitive damages for tort injury or breach of contract injury shall be included in gross income);
- (6) Amounts received as salaries or wages for services rendered by an employee to an employer;
- (7) Amounts received as alimony and other similar payments and settlements;
- (8) Amounts collected by distributors as fuel taxes on "liquid fuel" imposed by chapter 243, and the amounts collected by such distributors as a fuel tax imposed by any act of the Congress of the United States;
- (9) Taxes on liquor imposed by chapter 244D on dealers holding permits under that chapter;
- (10) The amounts of taxes on tobacco products imposed by chapter 245 on wholesalers or dealers holding licenses under that chapter and selling the products at wholesale, and the amounts of taxes on tobacco products collected from a wholesaler by another where the wholesaler makes separate charges for the amounts so collected from him and collects the same from those purchasing from him as provided by chapter 245;
- (11) Federal excise taxes imposed on articles sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer;

- (12) The amounts of federal taxes under chapter 37 of the Internal Revenue Code, or similar federal taxes, imposed on sugar manufactured in the State, paid by the manufacturer to the federal government;
- (13) An amount up to, but not in excess of, \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging, or continuing, in any business, trade, activity, occupation, or calling within the State;
- (14) Amounts received by an organization enumerated under section 237-23(a)(5) to (8) from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
- (15) Amounts received by a producer of sugarcane from the manufacturer to whom he sells the sugarcane, where (A) the producer is an independent cane farmer, so classed by the secretary of agriculture under the Sugar Act of 1948 (61 Stat. 922, Chapter 519) as the Act may be amended or supplemented, and (B) the value of the sugar, and other products manufactured from the sugarcane, is included in the measure of the tax levied on the manufacturer under section 237-13(1), and (C) the producer's gross proceeds of sales are dependent upon the actual value of the products manufactured therefrom or the average value of all similar products manufactured by the manufacturer, and (D) the producer's gross proceeds of sales are reduced by reason of the tax on the value of the manufactured products;
- (16) Money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes;
- (17) Amounts received by a cooperative housing corporation from its shareholders in reimbursement of funds paid by such corporation for lease rental, real property taxes, and other expenses of operating and maintaining the cooperative land and improvements, provided that such a cooperative corporation is a corporation:
 - (A) Having one and only one class of stock outstanding;
 - (B) Each of the stockholders of which is entitled solely by reason of his ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building owned or leased by the corporation;
 - (C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation;
- (18) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped for a producer or produce dealer on one island of this State to a person, firm, or organization on another island of this State. The terms "agricultural commodity", "producer", and "produce dealer" shall be defined in the same manner as they are defined in section 147-1;
- (19) Amounts received from sales of (A) intoxicating liquor as defined in chapter 244D, (B) tobacco products as defined in chapter 245, and (C) agricultural, meat, or fish products grown, raised, or caught in Hawaii, when such sales are made to any person or common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out-of-state by such person, crew, or passengers on such shipper's vessels or airplanes;

- (20) Amounts received by the manager or board of directors of an association of apartment owners of a horizontal property regime established in accordance with chapter 514A in reimbursement of sums paid for common expenses;
- (21) Any provision of law to the contrary notwithstanding, exemptions or exclusions from tax under this chapter allowed on or before April 1, 1978, for amounts received by any person or common carrier engaged in interstate or foreign commerce, or both, whether ocean-going or air, shall continue undiminished and be available thereafter to the extent and under the conditions such exemptions or exclusions have theretofore been previously allowed in the State under the provisions of the Constitution of the United States or an act of the Congress of the United States; [and]
- (22) Amounts received by an employee benefit plan by way of contributions, dividends, interest, and other income; and amounts received by a nonprofit organization or office, as payments for costs and expenses incurred for the administration of an employee benefit plan. For the purposes of this paragraph, "employee benefit plan" means any plan as defined in section 1002(3) of title 29 of the United States Code, as amended[.]; and
- (23) Amounts received for purchases made with United States Department of Agriculture food coupons if the United States Secretary of Agriculture determines under Public Law 99-198 that the tax imposed by this chapter will disqualify the State of Hawaii from participation in the federal food stamp program. If such a determination is made, and upon being so informed by the United States Secretary of Agriculture, the director of taxation shall immediately inform the general public by public notice of the exempt status."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on October 1, 1986.

(Approved April 22, 1986.)

ACT 87

S.B. NO. 2332-86

A Bill for an Act Relating to Higher Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 231-51, Hawaii Revised Statutes, is amended to read as follows:

"§231-51 Purpose. The purpose of sections 231-52 to 231-59 is to permit the retention of state income tax refunds of those persons [owing] who owe a debt to the State [or], who are delinquent in the payment of child support[.], or who have defaulted on an education loan note held by the United Student Aid Funds, Inc."

SECTION 2. Section 231-52, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "claimant agency" to read:

“ ‘Claimant agency’ includes any state agency, board, commission, department, institution, or other state organization, or any subdivision thereof. In the case of delinquent child support, ‘claimant agency’ means the department of social services and housing or an agency under cooperative agreement with the department, whenever the department is required by law to enforce a support order on behalf of an individual. ‘Claimant agency’ includes the department of budget and finance when acting on behalf and at the request of the United Student Aid Funds, Inc. to collect defaulted education loan notes incurred under the federal Higher Education Act of 1965 (Public Law 89-329, 79 Stat. 1219), as amended; provided that the department has a contract with the United Student Aid Funds, Inc. under chapter 309 when acting as a claimant agency.”

2. By amending the definition of “debt” to read:

“ ‘Debt’ includes:

- (1) Any delinquency in periodic court-ordered payments for child support in an amount exceeding the sum of payments which would become due over a one-month period; [and]
- (2) Any liquidated sum exceeding \$25 which is due and owing any claimant agency, regardless of whether there is an outstanding judgment for that sum, and whether the sum has accrued through contract, subrogation, tort, operation of law, or judicial or administrative judgment or order[.]; and
- (3) Any defaulted education loan note held by the United Student Aid Funds, Inc. incurred under the federal Higher Education Act of 1965 (Public Law 89-329, 79 Stat. 1219), as amended.”

3. By amending the definition of “debtor” to read:

“ ‘Debtor’ includes any person [owing] who owes a debt to any claimant agency, [or] who is delinquent in payment of court-ordered child support payments[,] or, who has defaulted on an education loan note held by the United Student Aid Funds, Inc. incurred under the federal Higher Education Act of 1965 (Public Law 89-329, 79 Stat. 1219), as amended.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

ACT 88

S.B. NO. 2468-86

A Bill for an Act Relating to Libraries.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 312, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§312- **Job sharing.** (a) A job-sharing program is established within the public library system, subject to the requirements of this section.

(b) The state librarian shall announce the job-sharing program to all full-time employees of the public libraries and shall solicit the voluntary requests of such personnel who may be interested in participating in the job-sharing program.

The state librarian, in consultation with the recognized employee bargaining units, shall formulate and adopt guidelines for the implementation of this section. Employees who respond to the announcement and others who may request information shall receive a full written description of the terms of the program when the guidelines are finalized and those desiring to participate may apply to participate in the program. The employees who apply for participation shall obtain the concurrence of their immediate supervisor, other appropriate personnel officers, and the state librarian. Those who qualify shall then be interviewed by a personnel officer of the public library system.

Upon the selection of a permanent, full-time employee for job-sharing, the state librarian shall convert the position of the employee into two job-sharing positions, one of which shall be filled by the employee, and the other which shall be filled by either another permanent employee or by the hiring of a new hire.

A person hired to fill a job-sharing position shall be recruited according to civil service recruitment procedures and shall possess the minimum requirements of the full-time position which was converted into a job-sharing position under this section.

(c) Job-sharing is the voluntary sharing of a full-time, permanent employee's position with another employee, with each working one-half of the total number of hours of work required and performing one-half of the work required of the respective full-time position, and with each receiving one-half of the salary to which each is respectively entitled and at least one-half of each employee benefit afforded to full-time employees.

The full-time, permanent employee shall not lose membership in an employee bargaining unit because of participation in this program, any law to the contrary notwithstanding. Union membership or service fees paid by job-sharers under this section shall be at a level consistent with usual union membership dues or service fees. The State's contribution to a job-sharer's prepaid health, prepaid dental, and any group life insurance plans shall be the same as for full-time employees, any other provision of the law to the contrary notwithstanding. Job-sharers shall be covered by chapter 386 and the applicable provisions of chapter 383. Nothing in this section shall be construed to vest any person with any rights to permanent employment status, whether under civil service or otherwise, which did not exist prior to the participation of the person in the job-sharing program. No full-time position shall be abolished or reduced to a half-time position except for the purpose of job-sharing. In a reduction-in-force procedure, consideration of a job-sharer's rights shall be on the same basis as that of a full-time employee. Nothing in this section shall impair the employment or employment rights or benefits of any employee.

(d) No job-sharing position committed to a specified period of time under the terms of the contractual agreement shall be converted to full-time status before the termination of the contractual agreement. A job-sharing vacancy created by the resignation, retirement, or other permanent or temporary severance of employment with the public library system on the part of any person may be filled through increasing the remaining half-time job-sharing person to full-time employment by mutual agreement, or recruitment of another person pursuant to this section.

(e) Upon the termination of contractual agreement, all job-sharing positions shall be reconverted to full-time positions, and the employees who held the full-time positions prior to their participation in the job-sharing program under this section shall be entitled to resume their positions without loss of employee rights."

SECTION 2. Act 139, Session Laws of Hawaii 1982, and Act 256, Session Laws of Hawaii 1984, are repealed.

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 89

S.B. NO. 2481-86

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431-693, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) All rates shall be made in accordance with the following provisions:
- (1) Due consideration shall be given to past and prospective loss experience within and outside this State; provided that if the claim does not exceed the selected deductible amount pursuant to section 386-100, and the employer reimburses the insurer for that amount, such claims shall not be calculated in the employer's experience rating or risk category. Due consideration shall also be given to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective expenses both countrywide and those specially applicable to this State, and to all other relevant factors within and outside this State. [; including, without limitation of the foregoing, that in the case of workers' compensation insurance, due] Due consideration shall also be given to investment income earned or realized by insurers, including investment income earned from unearned premium and loss reserve funds.
 - (2) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any class of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.
 - (3) Risks may be grouped by classifications for the establishing of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.
 - (4) Rates shall not be excessive, inadequate, or unfairly discriminatory.

- (5) No insurer authorized to do business in this State shall issue any policy which provides or makes available to any risks preferred rates based upon any grouping of persons, firms, or corporations by way of membership, license, franchise, contract, agreement, or any other method or means, other than common majority ownership of such risks, or except where:
 - (A) A common stock ownership in and management control of such risks are held by the same person, corporation, or firm;
 - (B) Permitted or authorized by filings in existence as of January 1, 1957, under sections 431-691 to 431-707, as such filings may be amended from time to time;
 - (C) Health care providers, as defined in section 671-1 who could have joined the patients' compensation fund as it existed in chapter 671, part III, prior to May 31, 1984, join together in one or more groups of related or unrelated health care providers; or
 - (D) Otherwise expressly provided by law."

SECTION 2. Section 431-694, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of the casualty rating law. The commissioner shall calculate the investment income and accuracy of loss reserves upon which filings are based and the insurer shall provide the information necessary to make the calculation."

SECTION 3. Section 431-713, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) Rates shall be made in accordance with the following provisions:
 - (1) Manual, minimum, class rates, rating schedules, or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specifically rated.
 - (2) Rates shall not be excessive, inadequate, or unfairly discriminatory.
 - (3) Due consideration shall be given to past and prospective loss experience within and outside this State, to the conflagration and catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, saving, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective expenses both countrywide and those specially applicable to this State, to investment income, and to all other relevant factors within and outside this State; and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which such experience is available.
 - (4) No insurer authorized to do business in this State shall issue any policy which provides or makes available to any risks preferred rates based upon any grouping of persons, firms, or corporations by way of membership, license, franchise, contract, agreement, or any other method or means, other than common majority ownership of such risks, or except where a common stock ownership in and agreement control of such risks are held by the same person,

corporation, or firm, or except where permitted or authorized by filings in existence as of January 1, 1957, under sections 431-711 to 431-726, as such filings may be amended from time to time, or except where otherwise expressly provided by law.”

SECTION 4. Section 431-714, Hawaii Revised Statutes, is amended by amending subsections (a) and (e) to read as follows:

“(a) Every insurer shall file with the insurance commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rate or rating plans, every manual, minimum, class rate, rating schedule, or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. The filing shall also include a report on investment income. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether the filing meets the requirements of the fire rating law, he shall require the insurer to furnish the information upon which it supports the filing and in such event the waiting period shall commence as of the date the information is furnished. The information furnished in support of a filing may include:

- (1) The experience or judgment of the insurer or rating organization making the filing,
- (2) Its interpretation of any statistical data it relies upon,
- (3) The experience of other insurers or rating organizations, or
- (4) Any other relevant factors.

(e) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of the fire rating law. The commissioner shall calculate the investment income and accuracy of loss reserves upon which filings are based and the insurer shall provide the information necessary to make the calculation.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

ACT 90

S.B. NO. 2512-86

A Bill for an Act Establishing a State Policy Encouraging Ridesharing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 279G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§279G- Findings. The legislature finds:

- (1) Public and private expenditures will be reduced by increases in ridesharing, particularly in maintenance and construction costs for highways.
- (2) Increased energy consumption, air pollution, traffic congestion, and motor vehicle parking constitute a serious problem in the State,

particularly in urban areas, and ridesharing is a cost-effective alternative approach for solving these problems.

- (3) The increased use of ridesharing will contribute to conservation of fuel, improvement of air quality, and more effective use of existing streets, highways, and parking facilities.
- (4) Ridesharing constitutes one of the most cost-effective and energy-efficient means of transportation.
- (5) Many employees work in and commute to the downtown area of Honolulu where the problems associated with traffic congestion, parking, energy consumption, and air pollution are greatest.
- (6) It is in the public interest and a public purpose for private industry, cities, counties, and the State to encourage people to use alternatives to single occupant motor vehicles, such as ridesharing."

SECTION 2. Chapter 279G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§279G- Declaration of policy. It is the policy of this State to encourage commuting to and from work by means other than a motor vehicle occupied by one person."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 91

S.B. NO. 718

A Bill for an Act Relating to the Leasing of Ocean and Marine Resources.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER
OCEAN AND SUBMERGED LANDS LEASING**

PART I. SHORT TITLE; PURPOSE; DEFINITIONS

§ -1 **Short title.** This chapter shall be known as the Hawaii Ocean and Submerged Lands Leasing Act.

§ -2 **Findings and purpose.** Article XI of the Constitution of the State of Hawaii relating to the conservation, control, and development of resources, provides in section 6 that the State shall have the power to manage and control the marine, seabed, and other resources located within the boundaries of the State, including its archipelagic waters, and reserves to the State all such rights outside state boundaries not specifically limited by federal or international law.

The legislature finds that the State's marine waters and submerged lands offer the people of Hawaii sources of energy, minerals, food, and usable space. The legislature further finds that the proper management and development of these ocean resources require defined rights of usage and tenure.

The purpose of this chapter is to establish procedures for the leasing of state marine waters and submerged lands and to guarantee property rights and protection for any activities approved under these procedures.

§ -3 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Agency" means any federal, state, local, or foreign government or any entity of any such government.

"Application" means a conservation district use application.

"Board" means the board of land and natural resources.

"Chairperson" means the chairperson of the board of land and natural resources.

"Commercial lease" means a lease of state marine waters or submerged lands for marine activities designed for profit.

"Department" means the department of land and natural resources.

"Lessee" means the holder of a valid lease granted pursuant to this chapter.

"Mariculture" means the cultivation and production for research, development, and demonstration purposes of plants and animals within the State's marine environment.

"Marine activities" means ocean thermal energy conversion (OTEC); mariculture; and other energy or water, research, scientific, and educational activities in, on, or under state marine waters or submerged lands.

"Noncommercial lease" means a lease of state marine waters or submerged lands for marine activities not designed for profit. The maximum size of the lease for mariculture shall not exceed four acres.

"OTEC" means ocean thermal energy conversion.

"OTEC facility" means an ocean thermal energy conversion facility which is located onshore, standing on submerged lands, or moored in state marine waters, and which is designed to use temperature differences in ocean water to produce energy or energy product equivalents and includes any surface and subsurface structures, intake and discharge pipes, and underwater power cables integrated with or appurtenant to such a facility.

"State marine waters" means all waters of the State, including the water column and water surface, extending from the upper reaches of the wash of the waves to the oceanic boundaries of the State.

"Water column" means the vertical extent of marine waters, including the surface, above submerged lands.

PART II. CONSERVATION DISTRICTS

§ -11 Conservation district use application. (a) Any person desiring to lease state marine waters or submerged lands shall submit to the board a conservation district use application for specific activities in any specific area or areas.

Applications made pursuant to this chapter shall contain:

- (1) An environmental assessment or, if required, an environmental impact statement which shall be prepared and accepted in compliance with the rules adopted under chapter 343;
- (2) A description of the location and boundaries of the marine waters and submerged lands to be used and a description of the nature of the use desired;
- (3) A statement of the reasons for selecting the proposed location;

- (4) A description of the activities to be conducted, including a specification as to whether such activities are commercial or noncommercial, a timetable for construction, deployment, and operation of facilities, and planned levels of production;
- (5) Where the application is for mariculture, a description of the species to be cultivated and produced;
- (6) A statement on the extent to which the proposed activities will interfere with the use of the marine waters for the purposes of navigation, fishing, and public recreation;
- (7) A description of any enclosure, fences, stakes, buoys, or monuments proposed to mark off the desired area; and
- (8) Other information which the board determines to be necessary or appropriate, including financial and technical information.

(b) The department shall process the conservation district use application pursuant to section 183-41 and rules adopted under this chapter. Within sixty days after the submission of a conservation district use application with a request for a lease for marine activities in state marine waters or submerged lands and the receipt of the related environmental assessment or environmental impact statement, the department shall issue a public notice that the application has been received. The public notice shall describe the marine waters or submerged lands, or both, for which application has been made, the nature of the exclusive use sought, and the purpose for which the application has been made. The notice shall be published on three separate days in a newspaper of general distribution in the State and in the county nearest the marine waters or submerged lands for which application has been made. The public notice shall invite public comment.

(c) Notice of hearings shall be provided and hearings shall be conducted in accordance with department rules regarding conservation district use applications. If the area described in the application adjoins any private property or adjoins or overlaps, above or below, any leased state marine waters or submerged lands, or if the proposed activity will affect the property or property rights of private property owners or lessees of state marine waters or submerged lands, the department also shall notify the owners or lessees of the adjoining, overlapping, or affected property. Notice shall be given in writing, by personal service or by registered or certified mail, and shall describe the marine waters or submerged lands, or both, for which application has been made, the nature of the exclusive use sought, and the purpose for which the application has been made.

- (d) The board shall consider in its evaluation of each application:
 - (1) The extent to which the proposed activity may have a significant adverse effect upon any existing private industry or public activity, including the use of state marine waters for the purposes of navigation, fishing, and public recreation;
 - (2) Whether the proposed activity may have an adverse or permanent effect upon the wildlife, aquatic life, or environment of the surrounding area; and
 - (3) Other potential uses of the area, including competing uses, which may be in the public interest.

(e) The board shall not approve an application unless it finds that (1) the applicant has the capacity to carry out the entire project; and (2) the proposed project is clearly in the public interest upon consideration of the overall economic, social, and environmental impacts.

(f) The board may impose conditions so that the proposed use or extent of the area in which the proposed activity may take place is no greater than is required to conduct the approved activity properly.

PART III. OCEAN LEASING GENERALLY; PROCEDURES; PROVISIONS

§ -21 Leasing of state marine waters and submerged lands for private uses. (a) The board may lease state marine waters and submerged lands for marine activities upon compliance with section 171-53 and with the concurrence of the director of transportation. Leases may be issued only for marine activities which are allowed pursuant to an approved conservation district use application. The board shall make a determination that each lease is a commercial or noncommercial lease.

(b) The board shall not lease state marine waters or submerged lands when existing programs of the department, such as the marine life conservation district program, shoreline fisheries management area program, or the natural area reserve program will suffer adverse impact as a consequence of the proposed activities; provided further that no lease shall be awarded within state marine waters designated necessary for national defense purposes, as determined by the department in consultation with the appropriate federal agencies.

(c) The board shall not lease state marine waters or submerged lands unless the board finds that a lease for the proposed activity is clearly in the public interest upon consideration of the overall economic, social, and environmental impacts and consistent with other state policy goals and objectives.

(d) The board shall not lease state marine waters or submerged lands unless the board finds that the applicant for a lease has complied with applicable federal, state, and county statutes, ordinances, and rules.

(e) The board may require any person who has obtained approval of a conservation district use application for marine activities or the operation of an OTEC facility in state marine waters or submerged lands to enter into a lease for the conduct of those activities.

(f) The board shall not approve an application, if in so doing it would fail to protect the public's use and enjoyment of the reefs in the state marine waters.

§ -22 Leasing procedure. (a) Any person who wants to obtain a lease for marine activities in state marine waters or submerged lands shall request a lease from the board at the time of filing a conservation district use application.

(b) Upon approval of a conservation district use application, the board may either:

- (1) Negotiate with and grant a lease to the applicant; or
- (2) Conduct a public auction and grant the lease to the highest qualified bidder.

Public auctions shall be conducted in accordance with chapter 171. If an auction is held and the applicant who has gone through the conservation district use application is not the highest qualified bidder, the board shall require the highest qualified bidder to indemnify the applicant for all legitimate costs incurred by the applicant to obtain approval of the conservation district use application.

(c) The board shall not revoke or modify its approval of a conservation district use application in such a way as to invalidate, impair, limit, or affect, directly or indirectly, in whole or in part, the rights of a lessee as set forth in the lease granted to the lessee pursuant to this chapter.

§ -23 Lease provisions. (a) Leases issued by the board shall be drawn up in accordance with the following requirements, in addition to any others determined by the board:

- (1) Each lease shall specify the term of the lease and the nature of the exclusive use of the area being granted.
- (2) Each lease shall specify the marine activities or other resources which may be cultivated, produced, harvested, removed, or used pursuant to the lease.
- (3) Each lease shall specify an annual rent set by the board for the leased marine waters or submerged lands. The basic rental charged in a commercial lease may be supplemented by royalty payments. No royalty shall be charged in a noncommercial lease.
- (4) Leases may specify that failure of the lessee to perform substantially the activities for which the lease was granted shall constitute grounds for revocation of the lease and forfeiture to the State of all structures and, in the case of mariculture activities, all plants or animals cultivated, in and upon the leased marine waters and submerged lands.
- (5) Each lease shall require that the lessee execute a bond conditioned upon the substantial performance of the activities described in the lease. The amount of the bond so executed shall be appropriate to the size, scale, and risk of the activity for which the lease is granted, and shall be sufficient to protect the public interest in the removal of all structures and, in the case of mariculture activities, all marine plants or animals cultivated, in and upon the leased marine waters and submerged lands, if the lease is forfeited for nonperformance or the board requires the removal or eradication of marine plants or animals pursuant to paragraph (11).
- (6) Each lease shall specify that if a lessee abandons a leased area, the board may order removal or sale at public auction of all improvements, assets, marine plants or animals, and equipment remaining in and upon the leased area, and shall transmit to the state general fund the entire amount received from any public auction and any proceeds received from the lessee's performance bond. Alternatively, the board may permit the use of the improvements, assets, marine plants or animals, and equipment for purposes which benefit the general public.
- (7) Each lease for mariculture shall specify that the marine plants or animals described in the lease to be cultivated and contained within the leased area are the exclusive harvest of the lessee; provided that any marine plant or animal which escapes from the leased area and is not clearly identifiable as the property of the lessee, shall become common property and may be taken or caught by any person, subject to the fishing laws of the State, without violating the rights of the lessee.
- (8) Each lease for mariculture shall specify that the lessee is responsible for the removal of any cultivated marine plants or animals found outside the leased area but within state marine waters or submerged lands if removal is required to protect the environment or public health and safety, and removal is demanded by the board; that the lessee is solely responsible for all costs of removal of such marine plants or animals; and that if action must be taken by the department to eradicate escaped marine plants or animals, all costs

of eradication shall be borne by the lessee; provided that the costs borne by the lessee shall be no greater than the amount of the bond required under paragraph (5).

- (9) Leases may specify that the lessee shall construct and maintain gates, openings, or lanes at reasonable distances from one another throughout a leased area which includes surface waters and in which any type of enclosure is an obstacle to free navigation, unless public transit in or through the enclosed waters will cause undue interference with the operation being conducted by the lessee within the leased area.
- (10) Leases may require, where necessary, that all lessees mark off the areas under lease by appropriate ranges, monuments, stakes, buoys, or fences, placed so that they do not interfere unnecessarily with navigation and other traditional uses of the water surface; that all lessees identify the area under lease and the names of the lessees on signs appropriately placed pursuant to rules of the board; and that all limitations upon the use by the public of an ocean area under lease shall be clearly posted by the lessee pursuant to rules established by the board.
- (11) Leases shall specify that if the chairperson finds or has reasonable cause to believe that an activity conducted by the lessee in or upon the area described in the lease is causing an immediate danger to human or marine life or the environment of the state marine waters or submerged lands, the chairperson may direct a temporary or permanent suspension of commercial or research activities in the affected area. The chairperson shall then notify the board. The board shall immediately order the lessee or lessees affected by such notice to show cause why their activities should not be terminated, or why any structures, cultivated marine plants or animals, or equipment should not be removed from state marine waters or submerged lands. The board shall proceed to hold a public hearing and issue its order with respect to such hearing within a reasonable period. In its order following such hearing the board may direct a temporary or permanent suspension of commercial or research activities in the affected area, removal of equipment or cultivated marine plants or animals, or such other measures as shall be deemed necessary for protection of human or marine life and environment of state marine waters and submerged lands, including forfeiture to and destruction by the State of any marine plant or animal species.
- (12) Each lease shall specify that the lease may be assigned in whole or in part, or amended, only if the board determines that such assignment or amendment is in the public interest and meets the provisions of this chapter. The board may consent to the mortgage of a lease pursuant to section 171-22.
- (13) Each lease shall specify that the lease may be revoked by the board for violation of any lease provision. The board shall deliver a written notice of the breach or default of any lease agreement by registered or certified mail to the party in default and to each holder of record having any security interest in the state marine waters and submerged lands covered by or subject to the lease, making demand upon the party to cure or remedy the breach or default within sixty days from the date of receipt of the notice. Upon failure of the party to cure or remedy the breach or default within sixty days from the

date of receipt of the notice, or within such additional period the board may allow for good cause, the board may revoke the lease.

(b) The chairperson or chairperson's authorized agents shall have the authority to enter and inspect any and all areas leased by the board for the purpose of determining compliance with the terms and provisions of any such lease.

§ -24 Konohiki fishing rights. (a) The provisions of this chapter shall not abridge or alter in any way konohiki fishing rights recognized in chapter 187A, including the right to sublease private konohiki fishing grounds for marine activities. No lease shall be granted by the board which conflicts with or impairs konohiki fishing rights.

(b) Any traditional fishing or marine activity conducted within konohiki fishing grounds is subject to all applicable state laws and rules enacted pursuant to the State's police powers over fisheries and navigable waters.

PART IV. ADMINISTRATION AND ENFORCEMENT

§ -31 Enforcement. Enforcement of this chapter shall be in accordance with chapter 199.

§ -32 Rules. The board shall adopt such rules as are necessary and appropriate to carry out the purposes and provisions of this chapter. The adoption of these rules shall be in accordance with chapter 91.

§ -33 Revenues. The revenues obtained from the leasing of state marine waters and submerged lands pursuant to this chapter shall be deposited into the general fund; provided that the portion of revenues subject to chapter 10, shall be deposited into the public land trust fund as provided by law.

§ -34 Penalties. Any person who conducts any mariculture or OTEC activities prohibited by a lease granted by the board, or who conducts these activities in or upon state marine waters or submerged lands without having obtained the approval of the board, shall be fined not more than \$10,000 for each separate offense. Each day of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this section shall be considered a civil action.

§ -35 Civil liability. Any person who wilfully or recklessly damages, disturbs, or interferes with any mariculture or OTEC activity which has been approved by the board, or who wilfully or recklessly damages, disturbs, interferes with, takes, or possesses any improvements, assets, marine plants or animals, or equipment in an area leased to a person, without the permission of that person, shall be subject to civil proceedings initiated by any person damaged thereby, notwithstanding the result in any criminal proceedings commenced under section -36.

§ -36 Criminal liability. Any person who negligently or wilfully damages, disturbs, or interferes with any mariculture or OTEC activity which has been approved by the board or who negligently or wilfully damages, disturbs, interferes, takes, or possesses any improvements, assets, marine plants or animals, or equipment in an area leased to a person, without the permission of that person, shall be treated in accordance with the applicable provisions of chapter 708."

SECTION 2. Severability. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect

without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

ACT 92

S.B. NO. 970

A Bill for an Act Relating to the Department of Hawaiian Home Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. (a) The Hawaiian Homes Commission Act, 1920, as amended, provides the authority for distributing benefits to native Hawaiians through the provision of Hawaiian home lands for homesteading purposes and financial assistance for construction of homes and farms. The Hawaiian Homes Commission Act is administered by the department of Hawaiian home lands, which is undertaking a program to accelerate the distribution of land to applicants on waiting lists for residential, agricultural, and pastoral homestead lots.

Last fiscal year the department awarded 1,036 homestead lots, and is planning to award at least another 1,500 lots this year and another 1,500 lots next fiscal year. As of December 31, 1985, there were 4,325 homestead lessees and 10,535 applicants. By June 30, 1987, it is expected that another 3,000 new lessees will be served by the department, with an estimated 2,700 new names added to waiting lists.

Since July 1, 1983, the department has been authorized only sixty-eight permanent positions, and has had to utilize temporary positions to enable it to cope with high workload volume. The department is presently employing forty-eight temporary staff exempt from civil service, as authorized by section 202(b) of the Hawaiian Homes Commission Act. All of the department's positions are financed by special funds because the department does not receive any general fund financing. Special funds cover all operating costs, including salaries and fringe benefits.

(b) The purpose of this Act is to authorize the department of Hawaiian home lands to establish up to thirty permanent positions and to fill the positions with temporary personnel who have been trained and are well qualified to provide services required in carrying out the purposes of the Hawaiian Homes Commission Act. Establishment and filling of the positions authorized by this Act will enable the department to cope with present and future workload requirements, to avoid additional costs associated with recruiting and training new employees to replace experienced staff members, and to administer the Hawaiian Homes Commission Act in an effective manner.

SECTION 2. With the approval of the governor, the department of Hawaiian home lands is authorized to establish up to thirty permanent positions and to assign the positions to appropriate programs of the department. The director of personnel services shall classify each position established pursuant to this Act and assign the position to an appropriate class and pay range. After the position is classified, the department of Hawaiian home lands may place a temporary employee exempt from civil service in a permanent position established pursuant to this Act; provided that the employee meets the minimum qualification requirements for the class. A temporary employee placed

in a permanent position shall be conferred permanent civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, without any reduction in pay, and without any loss of seniority, prior service credit, vacation and sick leave credits earned, or loss of any other benefit accorded a civil service employee.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

ACT 93

S.B. NO. 2091-86

A Bill for an Act Relating to Hawaii Housing Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 205-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any department or agency of the State, any department or agency of the county in which the land is situated, or any person with a property interest in the land sought to be reclassified, may petition the land use commission for a change in the boundary of a district. This section is applicable to all petitions for changes in district boundaries of lands within conservation districts and all petitions for changes in district boundaries involving lands greater than fifteen acres in the agricultural, rural, and urban districts[.], except as provided in section 359-4.1.¹ The land use commission shall adopt rules pursuant to chapter 91 to implement section 359-4.1¹.”

SECTION 2. Section 359G-4.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The authority may develop, on behalf of the State or in partnership, or may assist under a government assistance program in the development of housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon; provided that:

- (1) The authority finds the project is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;
- (2) The development of the proposed project does not contravene any safety standards or tariffs approved by the public utilities commission for public utilities; and
- (3) The legislative body of the county in which the project is to be situated or, where a land designation amendment is required, the Land Use Commission shall have approved the project.
 - (A) The legislative body or Land Use Commission shall approve or disapprove the project within forty-five days after the authority has submitted the preliminary plans and specifications for the project to the legislative body [.] or Land Use Commission. If after the forty-fifth day a project is not disapproved, it shall be deemed approved by the legislative body [.] or Land Use Commission.
 - (B) No action shall be prosecuted or maintained against any county, its officials, or employees, on account of actions taken

by them in reviewing, approving, or disapproving the plans and specifications.

- (C) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the project shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of sections 501-85 and 502-17, the executive director of the authority or the responsible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and registrar."

SECTION 3. Section 359G-10.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) In any county, the authority may develop or may enter into agreements for housing projects with a private developer where [a project was initiated by the private developer and] in the authority's reasonable judgment a project is primarily designed for low-income housing. The agreement may provide for the housing to be placed under the control of the authority, or to be sold by the authority, or to be sold to the authority as soon as the units are completed and shall contain such terms, conditions, and covenants as the authority, by rules made in conformity with this chapter and chapter 91 deems appropriate, and every agreement shall provide for the developer to furnish a performance bond² in favor of the authority, assuring the timely and complete performance of the housing project. Sureties of the bond must be satisfactory to the authority.

(b) [Whenever the authority determines a developer to be eligible it may accept its application for approval of a project provided the] The plans and specifications for the project [and the terms of the agreement to be entered:] shall:

- (1) Provide for economically integrated housing by stipulation and design; provided that not less than sixty per cent of the units shall be sold in price ranges established by the authority under this chapter and chapter 91 as being within the purchasing power of lower income purchasers and the balance of the units to be sold at these or other prices; provided further that the variously priced units shall not be segregated and shall be randomly dispersed individually or in clusters throughout the project horizontally, and if applicable, vertically;
- (2) Provide for the sale of all units in fee simple or in leasehold either to the authority or to the purchaser and in all cases subject to all of the provisions of [section 359G-9.2;] sections 359G-9.2, 359G-9.3 and 359G-9.4, excepting units sold at market price; and
- (3) Encompass the use of lands adequately suited to the size, design, and types of occupancies designated in subsection (a), properly located for occupancy by the groups for which primarily designed under this section, properly districted for the use intended prior to this application, and appropriately zoned within an urban land use

district, or appropriate in its situation and surroundings for more intensive or denser zoning.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon December 31, 1986.

(Approved April 22, 1986.)

Notes

1. Should probably read “359G-4.1”.
2. Prior to amendment, “,” appeared here.

ACT 94

H.B. NO. 107

A Bill for an Act Relating to State Warrants.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 40-56, Hawaii Revised Statutes, is amended to read as follows:

“§40-56 Warrants for supplies, incidentals. Warrants for bills of materials, supplies, and incidentals of every kind and character, shall be made payable to the order of each individual person to whom the State is indebted, except as provided in section 40-58, and only after an original warrant voucher shall have been presented to the comptroller accompanied by all original bills and any other supporting document as may be required by the comptroller. The original warrant voucher shall have indorsed thereon the approval of the officer in whose department the liability or expense has been incurred, and the appropriation to which it is chargeable; and further, each original bill shall be specially certified to by the subordinate officer of the State directly incurring the liability or expense that all the materials, supplies, and incidentals have been received in good order and condition[.], unless the bill is for an advance payment or a deposit to be paid as specified in the department's purchase order, in which case the certification of the original bill by the subordinate officer is not required. Any advance payment made under this section must conform to the common business practice for making such payment as determined by the comptroller.”

SECTION 2. Section 40-57, Hawaii Revised Statutes, is amended to read as follows:

“§40-57 Warrants on account of contracts. All warrants for bills on account of state contracts shall be made payable to the order of the person to whom the State is directly indebted, except as provided in section 40-58, and only after an original warrant voucher shall have been presented to the comptroller accompanied by all original bills and any other supporting document as may be required by the comptroller. The original warrant voucher shall have indorsed thereon the approval of the officer in whose department the contracts have been made, and the appropriation to which it is chargeable; and further, each original bill shall be specially certified to by the subordinate officer of the State supervising the work performed, or receiving the materials and supplies as specified in the contracts, that the work has been faithfully performed and that the materials and supplies were in a good and merchantable

condition when received[.], unless the bill is for an advance payment or a deposit to be paid as specified in the department's contract, in which case the certification of the original bill by the subordinate officer is not required. No warrant shall be issued unless a copy of the contract or bid shall have been filed with the comptroller, together with a statement by the head of the department or agency that made the contract or accepted the bid, naming the appropriation to which the contract or bid is to be chargeable."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 22, 1986.)

ACT 95

S.B. NO. 1033

A Bill for an Act Relating to the Employees' Retirement System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 88-106, Hawaii Revised Statutes, is amended to read as follows:

"**§88-106 Correction of errors.** Should any change or error in records result in any member, retirant, or beneficiary receiving from the system more or less than [he] the member, retirant, or beneficiary would have been entitled to receive had the records been correct, the board of trustees shall correct the error and as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which the member, retirant, or beneficiary was correctly entitled shall be paid. Should any error in calculation or records result in any member, retirant, or beneficiary receiving from the system more than the member, retirant, or beneficiary would have been entitled to receive had the calculation or records been correct, the board of trustees shall correct the error and may forgive any such overpayment."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 28, 1986.)

ACT 96

H.B. NO. 1795-86

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-96, Hawaii Revised Statutes, is amended to read as follows:

"[[§514A-96[]] **Audits.** The association of apartment owners shall require a yearly audit of the association financial accounts and no less than one yearly unannounced [audit] verification of the association's [financial accounts] cash balance by a [certified] public accountant; provided that the yearly audit

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and the yearly unannounced [audit] cash balance verification may be waived by a majority vote of all apartment owners taken at an association meeting.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 28, 1986.)

ACT 97

H.B. NO. 1859-86

A Bill for an Act Relating to Motor Vehicle Accident Reparations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 294-2, Hawaii Revised Statutes, is amended by amending the definition of “no-fault benefits” to read as follows:

- “(10) “No-fault benefits”, sometimes referred to as personal injury protection benefits, with respect to any accidental harm shall be subject to an aggregate limit of \$15,000 per person or his survivor and means:
- (A) All appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional nursing, dental, optometric, ambulance, prosthetic services, products and accommodations furnished, x-ray, and may include any nonmedical remedial care and treatment rendered in accordance with the teachings, faith, or belief of any group which depends for healing upon spiritual means through prayer;
 - (B) All appropriate and reasonable expenses necessarily incurred for psychiatric, physical, and occupational therapy and rehabilitation;
 - (C) Monthly earnings loss measured by an amount equal to the lesser of:
 - (i) \$900 a month; or
 - (ii) The monthly earnings for the period during which the accidental harm results in the inability to engage in available and appropriate gainful activity.
 - (D) All appropriate and reasonable expenses necessarily incurred as a result of such accidental harm, including, but not limited to, (i) expenses incurred in obtaining services in substitution of those that the injured or deceased person would have performed not for income but for the benefit of himself or his family up to \$800 [per] a month, (ii) funeral expenses not to exceed \$1,500, and (iii) attorney’s fees and costs to the extent provided in section 294-30(a);
provided that the term, when applied to a no-fault policy issued at no cost under [the provisions of] section 294-24(b)(2), shall not include benefits under subparagraphs (A), (B), and (C) for any person receiving public assistance benefits.”

SECTION 2. Section 294-4, Hawaii Revised Statutes, is amended to read as follows:

“§294-4 Obligation to pay no-fault benefits. Every no-fault insurer and self-insurer shall provide no-fault benefits, sometimes referred to as personal injury protection benefits, for accidental harm as follows:

- (1) Except as otherwise provided in section 294-5(c):
 - (A) In the case of injury arising out of a motor vehicle accident to any person, including the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian (including a bicyclist), or any user or operator of a moped as defined in section 249-1, but not including any operator of a motorcycle or motor scooter as defined in section 286-2, who sustains accidental harm as a result of the operation, maintenance, or use of the vehicle, the insurer shall pay, without regard to fault, to the person an amount equal to the no-fault benefits payable to the person as a result of the injury; or
 - (B) In the case of death arising out of a motor vehicle accident of any person, including the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian (including a bicyclist), or any user or driver of a moped as defined in section 249-1, but not including any operator of a motorcycle or motor scooter as defined in section 286-2, who sustains accidental harm as a result of the operation, maintenance, or use of the vehicle, the insurer shall pay, without regard to fault, to the legal representative of the person, for the benefit of the surviving spouse and any dependent, as defined in section 152 of the Internal Revenue Code of 1954, as amended, of the person, an amount equal to the no-fault benefits payable to the spouse and dependent as a result of the death of the person, subject, however, to [the provisions of] section 294-2(10).
- (2) Payment of no-fault benefits shall be made as the benefits accrue, except that in the case of death, payment of the benefits may, at the option of the beneficiary, be made immediately in a lump sum payment.
- (3) Payment of no-fault benefits shall be made within thirty days after the insurer has received reasonable proof of the fact and amount of benefits accrued, and demand for payment thereof. If the insurer elects to deny a claim for benefits in whole or in part, the insurer shall within thirty days notify the claimant in writing of denial and the reasons for the denial. The denial notice shall be prepared and mailed by the insurer in triplicate copies and be in a format approved by the commissioner. If the insurer cannot pay or deny the claim for benefits because additional information or loss documentation is needed, the insurer shall, within the thirty days, forward the claimant an itemized list of all the required documents.
- (4) Amounts of benefits which are unpaid thirty days after the insurer has received reasonable proof of the fact and amount of benefits accrued, and demand for payment thereof, after the expiration of the thirty days, shall bear interest at the rate of one and one-half per cent per month.
- (5) No part of no-fault benefits paid shall be applied in any manner as attorney's fees in the case of injury or death for which the benefits are paid. The insurer shall pay, subject to section 294-30, in addition to the no-fault benefits due, all attorney's fees and costs of

settlement or suit, necessary to effect the payment of any or all no-fault benefits found due under the contract. Any contract in violation of this provision shall be illegal and unenforceable, and it shall constitute an unlawful and unethical act for any attorney to solicit, enter into, or knowingly accept benefits under any such contract.

- (6) Any insurer who violates [the provisions of] this section shall be subject to [the provisions of subsections] section 294-39(b) and (c)."

SECTION 3. Section 294-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In order to [be] meet the requirements of a no-fault policy[,] as provided in this chapter, an insurance policy covering a motor vehicle shall provide, in addition to the [coverage] no-fault benefits, sometimes referred to as the personal injury protection benefits, specified in section 294-4, insurance to pay on behalf of the owner or any operator of the insured motor vehicle using the motor vehicle with the express or implied permission of the named insured, sums which the owner or operator may legally be obligated to pay for injury, death, or damage to property of others, except property owned by, being transported by, or in the charge of the insured, which arise out of the ownership, operation, maintenance, or use of the motor vehicle:

- (1) Liability coverage of not less than \$35,000 for all damages arising out of accidental harm sustained by any one person as a result of any one accident applicable to each person sustaining accidental harm arising out of ownership, maintenance, use, loading, or unloading, of the insured vehicle;
- (2) Liability coverage of not less than \$10,000 for all damages arising out of injury to or destruction of property including motor vehicles and including the loss of use thereof, but not including property owned by, being transported by, or in the charge of the insured, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the insured vehicle."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 28, 1986.)

ACT 98

H.B. NO. 2005-86

A Bill for an Act Relating to Application Procedures for Environmental Permits.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 342-6, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The failure of the director to act on an application for the issuance of a permit or an application by a permit holder for the modification or renewal thereof within one hundred eighty days of the receipt of such application, except for all federally delegated permit programs, shall be deemed a grant of such

application so long as the applicant acts consistently with the application and all plans, specifications, and other information submitted as a part thereof.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 28, 1986.)

ACT 99

H.B. NO. 2037-86

A Bill for an Act Relating to Massage.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 452, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§452- **Disciplinary actions.** (a) The board may take disciplinary action against any licensee, including, but not limited to, revocation, suspension, fine, or a combination thereof, or may refuse to grant or renew a license for any of the following reasons:

- (1) Procuring a license through fraud, misrepresentation, or deceit or permitting an unlicensed person to perform activities which require a license under this chapter;
- (2) Conviction of any crime involving moral turpitude;
- (3) Practicing massage while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- (4) Failure to display a license as provided in this chapter;
- (5) Professional misconduct, gross carelessness, or manifest incapacity in the practice of massage;
- (6) Violating this chapter or the rules adopted pursuant thereto;
- (7) Failing to comply with a board order;
- (8) Any other conduct constituting fraudulent or dishonest dealings; and
- (9) Making a false statement on any document submitted or required to be filed by this chapter.

(b) Any person who violates any of the provisions of this chapter or the rules adopted pursuant thereto shall be fined not less than \$100 nor more than \$1,000 for each violation.”

SECTION 2. Chapter 452, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§452- **Right of injunction.** The department of commerce and consumer affairs, in addition to any other remedies available, may apply to a court having competent jurisdiction for an injunction to restrain any violation of this chapter.”

SECTION 3. Chapter 452, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§452- **Cumulative remedies.** The remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.”

SECTION 4. Section 452-6, Hawaii Revised Statutes, is amended to read as follows:

“§452-6 Powers and duties of the board. (a) The board shall adopt rules pursuant to chapter 91 for the purposes of this chapter.

(b) The board may grant, or upon proof of violation of this chapter or the rules adopted by the board governing the practice under this chapter, revoke, suspend, or refuse to renew a license as provided in this chapter.

[(c) The board may refuse to grant a license to or may refuse to renew or may revoke a license of a person found guilty of fraud in meeting any requirement of this chapter or an offense involving moral turpitude; addicted to liquor or drugs; or failing to display a license as provided in this chapter.

(d) [(c)] The board shall adopt rules pursuant to chapter 91 relating to massage therapist apprenticeship including rules establishing qualifications for apprenticeship permits and the requirements to be met by massage therapist apprentices prior to taking the massage therapist license examination.

[(e)] [(d)] The executive secretary, under the direction of the board, shall issue subpoenas for the attendance of witnesses before the board with the same effect as if [they] the subpoenas were issued in an action in the circuit court, and shall, under the direction of the board, administer oaths in all matters pertaining to the duties of [his] the executive secretary's office or connected with the administration of the affairs of the board. Disobedience of [such] a subpoena and false swearing before the executive secretary or the board shall be attended by the same consequences and be subject to the same penalties as if [such] the disobedience or false swearing occurred in an action in the circuit court.”

SECTION 5. Section 452-13, Hawaii Revised Statutes, is amended to read as follows:

“§452-13 Requisites for admission to examination and licensing of massage therapists, massage establishments, and out-call massage services. (a) The executive secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examination and licensing.

(1) A nonrefundable application fee [and an examination fee, which shall be refunded only if the board finds that the applicant is not qualified to take the license examination,] shall be paid to the board at the time of the application.

(2) [The board shall satisfy itself as to the good moral character of the applicant, may require the submission of certification as to good moral character by reputable citizens, and, in its discretion, may independently investigate the applicant's moral character.] The examination fee shall be refunded only if the applicant is found not qualified to take the license examination.

(3) An applicant for examination shall have spent at least six months as a massage therapist apprentice and have met all other requirements set for apprentices by the board pursuant to section 452-6(d).

[(4) The board may waive the examination of an applicant upon the payment of the application fee and if the applicant is licensed in another state, territory, or the District of Columbia, wherein the license requirements are found by the board to be comparable or more stringent than the requirements in force in this State.]

(b) An applicant desiring to license a massage establishment or an out-call massage service shall file with the board a written application under oath, on a form prescribed and supplied by the board, and setting forth that the applicant has complied with all of the requirements in a manner and detail as may be

required by the rules established by the board. A license fee shall be paid to the board together with the application fee.”

SECTION 6. Section 452-14, Hawaii Revised Statutes, is amended to read as follows:

“§452-14 Examination. The board may contract with professional testing services to prepare, administer, and grade the examinations and tests for applicants as may be required for the purposes of this chapter. The examination of applicants for licenses to practice massage shall be conducted under rules prescribed by the board and shall include both practical demonstrations and written or oral tests and shall not be confined to any specific system or method, and [such] the examination shall be consistent with the practical and theoretical requirements of the occupation as provided by this chapter.”

SECTION 7. Section 452-15, Hawaii Revised Statutes, is amended to read as follows:

“§452-15 Licenses. If an applicant for an examination for massage therapist passes the examination to the satisfaction of the board, [or the board has waived the examination under section 452-13(a)(4), and the applicant has paid a license fee,] the board shall issue a license to that effect, signed by the chairman. The license shall be evidence that the person to whom it is issued is entitled to follow the practice stipulated therein as prescribed in this chapter. The license shall not be transferable and shall be conspicuously displayed in the place of business or employment.”

SECTION 8. Section 452-17, Hawaii Revised Statutes, is amended to read as follows:

“§452-17 Fees. (a) The fees for application, [examination,] licensing, and other registrations shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, and shall be paid in advance and deposited with the director of finance to the credit of the general fund.

(b) Every applicant who is required by the board to be examined shall pay an examination fee as provided in rules adopted by the director pursuant to chapter 91. The examination fee may be paid directly to the testing agency by the director or the examinee or deposited with the director of finance to the credit of the general fund.”

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 10. This Act shall take effect upon its approval.

(Approved April 28, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 100

H.B. NO. 2110-86

A Bill for an Act Relating to Chiropractic.

Be It Enacted by the Legislature of the State of Hawaii:

ACT 101

SECTION 1. Section 442-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The applicant shall be required to pass parts I and II of the national board of chiropractic examiners’ examination in order to qualify for the state chiropractic examination. The state examinations shall be designed to ascertain the fitness and qualifications of the applicant to practice chiropractic. The board may contract with professional testing services to prepare, administer, and grade the state examinations. The state examination [shall] may include both practical demonstration and a written examination. [The board may accept an applicant who presents bona fide evidence as having passed the national board of chiropractic examiners’ examination in lieu of the written portion of the state board of chiropractic examiners’ examination.] A license shall be granted to any applicant who attains a numerical score of seventy-five [per cent] or higher in all subjects and sections of the state examination. Any applicant failing to make the required grade may be reexamined at the next regular examination upon payment of a reexamination fee.”

SECTION 2. Section 442-6, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) For each year of actual practice as a licensed chiropractor in another state the applicant shall be given a credit of one-half [per cent] point up to twenty years maximum to be added to each score for each subject area.”

SECTION 3. Section 442-18, Hawaii Revised Statutes, is amended to read as follows:

“§442-18 Disposition of fees; establishment of fees by rule. (a) All moneys received by the board of chiropractic examiners under this chapter shall be paid to the director of [finance as government realizations.] commerce and consumer affairs and shall be deposited with the director of finance to the credit of the general fund.

(b) All fees required by this chapter or in rules adopted by the board shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. The examination fee may be paid directly to the testing agency by the director or the examinee.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 28, 1986.)

ACT 101

H.B. NO. 2375-86

A Bill for an Act Relating to Motor Vehicle Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 294-39, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person subject to this chapter in the capacity of the operator, owner, or registrant of a motor vehicle in this State, or registered in this State, who violates any applicable provision of this chapter, shall be subject to citation for the violation by any county police department in a form and manner

approved by the violations bureau of the district court of the first circuit. Notwithstanding any provision of the Hawaii Penal Code, each violation shall be deemed a separate offense and shall be subject to a fine not less than \$100 nor more than \$1,000 and the fine shall not be suspended; provided if the person is convicted of not having had a no-fault policy in effect at the time the citation was issued, the fine for the first offense shall be \$100, with a minimum of \$400 for each additional offense.

The general penalty provision of this section shall not apply to:

- (1) Any operator of a motor vehicle owned by another person [shall not be considered in violation of this section] if the operator's own insurance covers such driving[.]; nor
- (2) Any operator of a motor vehicle owned by that person's employer during the normal scope of that person's employment.

In the case of multiple violations the court shall in addition to any other penalty, impose the following penalties:

- (1) Imprisonment of not more than thirty days;
- (2) Suspension or revocation of driver's license of the driver and of the registered owner;
- (3) Suspension or revocation of the motor vehicle registration plates of the vehicle involved;
- (4) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle; or any other cost involved pursuant to section 294-10; or
- (5) Any combination of such penalties."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 28, 1986.)

ACT 102

H.B. NO. 1720-86

A Bill for an Act Relating to Employees of Public Utilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 270, Hawaii Revised Statutes, is repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 29, 1986.)

ACT 103

H.B. NO. 1802-86

A Bill for an Act Relating to the Residential Landlord Tenant Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 521-35, Hawaii Revised Statutes, is amended to read as follows:

"[[§521-35[]] **Attorney's fees.** (a) A rental agreement may provide for the payment by the tenant of the costs of a suit, for unpaid rent, [if any,] and reasonable attorney's fees not in excess of twenty-five per cent of the unpaid rent

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after default and referral to an attorney not a salaried employee of the landlord or [his] the landlord's assignee.

(b) A rental agreement may further provide that reasonable attorney's fees and costs may be awarded to the prevailing party in all other matters arising under this chapter.

(c) A provision in violation of this section is unenforceable."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1986.)

ACT 104

H.B. NO. 1903-86

A Bill for an Act Relating to Pilotage Waters.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 462A-17, Hawaii Revised Statutes, is amended to read as follows:

under **"§462A-17 Description of pilotage waters.** Pilotage waters as established under this chapter shall be the waters of the State described as follows:

- (1) Port Allen: All waters inside a line drawn from Puolu Point to Weli Point.
- (2) Nawiliwili: All waters inside a line drawn from Ninini Point to Kawaii Point.
- (3) Honolulu: All waters inside a line drawn from Diamond Head Light, 278°true, to the intersection of a line drawn from Ahua Point, 180°true.
- (4) Kahului: All waters inside a line drawn from Waiehu Point to Waihee Reef Lighted Buoy 2 in Latitude 20°55.9'North and Longitude 156°28.5'West and thence to Papaula Point.
- (5) Hilo: All waters inside a line drawn from the outer extremity of the Hilo Bay breakwater to Paukaa Point Light.
- (6) Kawaihae: All waters inside a line drawn from the outer extremity of the Kawaihae Harbor breakwater due West to Longitude 155°51'West, thence due North to Latitude 20°03'North and thence due East to where it intersects with the shoreline.
- (7) Barbers Point: All waters inside a line drawn from the northernmost refinery tower, 250°true, to the intersection of a line drawn from the stack of the Kahe Point power station, 200°true."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1986.)

ACT 105

H.B. NO. 2024-86

A Bill for an Act Relating to the Hawaii Community Development Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 206E-6, Hawaii Revised Statutes, is amended to read as follows:

“§206E-6 District-wide improvement program. (a) The authority shall develop a district-wide improvement program to identify necessary district-wide public facilities within a community development district.

(b) Whenever the authority shall determine to undertake, or cause to be undertaken, any public facility as part of the district-wide improvement program, the cost of providing [said] the public facilities shall be assessed against the real property in the community development district specially benefiting from such public facilities. The authority shall determine the areas of the community development district which will benefit from the public facilities to be undertaken and, if less than the entire community development district benefits, the authority may establish assessment areas within the community development district. The authority may issue and sell bonds in such amounts as may be authorized by the legislature to provide funds to finance such public facilities. The authority shall fix the assessments against real property specially benefited.

(c) [The authority may adopt rules pursuant to chapter 91, and may amend the same from time to time, providing for the method of undertaking and financing public facilities in an assessment area or an entire community development district.] Bonds issued to provide funds to finance public facilities shall be secured solely by the real properties benefited or improved, the assessments thereon, or by the revenues derived from the program for which the bonds are issued, including reserve accounts and earnings thereon, insurance proceeds, and other revenues, or any combination thereof. The bonds may be additionally secured by the pledge or assignment of loans and other agreements or any note or other undertaking, obligation, or property held by the authority. Bonds issued pursuant to this section and the income therefrom shall be exempt from all state and county taxation, except transfer and estate taxes. The bonds shall be issued according and subject to the provisions of the rules adopted pursuant to this section.

(d) Any other law to the contrary notwithstanding, in assessing real property for public facilities, the authority shall assess the real property within an assessment area according to the special benefits conferred upon the real property by the public facilities. These methods may include assessment on a frontage basis or according to the area of real property within an assessment area or any other assessment method which assesses the real property according to the special benefit conferred, or any combination thereof. No such assessment levied against real property specially benefited as provided by this chapter shall constitute a tax on real property within the meanings of any constitutional or statutory provisions.

(e) The authority may adopt rules pursuant to chapter 91, and may amend the rules from time to time, providing for the method of undertaking and financing public facilities in an assessment area or an entire community development district. The rules adopted pursuant to this section may include, but are not limited to, the following: methods by which the authority shall establish assessment areas; the method of assessment of real properties specially benefited; the costs to be borne by the authority, the county in which the public facilities are situated, and the property owners; the procedures before the authority relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices; provisions relating to assessments; provisions relating to financing, such as bonds, revolving funds, advances from available funds, special funds for

payment of bonds, payment of principal and interest, and sale and use of bonds; provisions relating to funds and refunding of outstanding debts; and provisions relating to limitations on time to sue, and other related provisions.

[(d)] (f) Any provisions to the contrary notwithstanding, the authority may, in its discretion, enter into any agreement with the county in which the public facilities are located, to implement all or part of the purposes of this section.

[(e)] (g) All sums collected under this section shall be deposited in the Hawaii community development revolving fund established by section 206E-16; except that notwithstanding section 206E-16, all moneys collected on account of assessments and interest thereon for any specific public facilities, financed by the issuance of bonds shall be set apart in a separate special fund and applied solely to the payment of the principal and interest on these bonds, the cost of administering, operating, and maintaining the program, the establishment of reserves, and other purposes as may be authorized in the proceedings providing for the issuance of the bonds. If any surplus remains in any special fund after the payment of the bonds chargeable against such fund it shall be credited to and become a part of the Hawaii community development revolving fund. Moneys in the Hawaii community development revolving fund may be used to make up any deficiencies in the special fund.

[(f)] (h) If the public facilities to be financed through bonds issued by the authority may be dedicated to the county in which the public facilities are to be located, the authority shall ensure that the public facilities are designed and constructed to meet county requirements."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1986.)

ACT 106

H.B. NO. 2043-86

A Bill for an Act Relating to Real Estate.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 467-9.5, Hawaii Revised Statutes, is amended to read as follows:

"§467-9.5 Prerequisites for written examination. No person shall be eligible for the written examination unless:

- (1) The person is [a legal resident of the State and is] of the age of majority;
- (2) The person applying for the real estate salesman examination has satisfactorily completed a course on real estate principles or its equivalent, approved or accredited by the real estate commission;
- (3) The person applying for the real estate broker examination has satisfactorily completed a course for real estate brokers, or its equivalent, approved or accredited by the real estate commission;
- (4) The person applying for the real estate broker examination (A) has previously been licensed as a Hawaii real estate salesman, and (B) has previously been engaged in the real estate business as a licensed Hawaii real estate salesman for a period of two years on a full-time

basis, and has practical experience in the real estate field as determined by the commission. The commission may waive all or a portion of the two years' experience, if the person has had other experience or education in the selling or management of real estate, which, in the opinion of the commission, is equivalent to two years' experience to be established by detailed explanatory affidavit or in such other manner as may be determined by the commission.

Each person shall certify on the application for examination that the prerequisites set forth above have been or will be satisfied prior to the date of examination. The examination score of any person who has taken the written examination without having satisfied the prerequisites set forth above shall be voided."

SECTION 2. Section 467-15, Hawaii Revised Statutes, is amended to read as follows:

"§467-15 Hearings. In every case where it is proposed to refuse to grant a license because of bad character or bad reputation for honesty, truthfulness, or fair dealing, or to revoke or suspend the exercise of any license for any of the causes enumerated in section 467-14, the person concerned shall be given notice and hearing in conformity with chapter 91. [The notice shall be given at least five days before the hearing.]

In all proceedings before it, the real estate commission and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence, and examining witnesses, as are possessed by circuit courts. In cases of disobedience by any person of any order of the commission, or any member thereof, or of any subpoena issued by it, or him, or the refusal of any witness to testify to any matter regarding which he may be questioned lawfully, any circuit judge, on application by the commission, or a member thereof, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved April 29, 1986.)

Note

1. No underscored material.

ACT 107

H.B. NO. 2056-86

A Bill for an Act Relating to Medical Care Payments.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-59, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

"(d) Notwithstanding any other provisions of this chapter, the department may establish a demonstration project which guarantees a six-month enrollment in a health maintenance organization [or prepaid health plan] under a risk contract and designated as such by the United States Department of

Health and Human Services for those [AFDC families] eligible public assistance recipients who voluntarily agree to participate in the project.

(e) Payments to health maintenance organizations and prepaid health plans with which the department executes risk contracts for the provision of medical care to eligible public assistance recipients may be made on a prepaid basis. The rate of payment per participating recipient shall be fixed by contract, as determined by the department and the health maintenance organization[,] or the prepaid health plan, but shall not exceed the maximum permitted by federal rules and shall be less than the federal maximum when funds appropriated by the legislature for such contracts require a lesser rate. For purposes of this subsection, "health maintenance organizations" [means] are entities approved as such, and "prepaid health plans" are entities designated as such by the Department of Health and Human Services [or other prepaid health plans.]; and "risk" means the possibility that the health maintenance organization or the prepaid health plan may incur a loss because the cost of providing services may exceed the payments made by the department for services covered under the contract."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1986.)

ACT 108

H.B. NO. 2118-86

A Bill for an Act Relating to the Hawaii Motor Vehicle Accident Reparations Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 294-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The commissioner shall annually revise the medical-rehabilitative limit in the following manner. The commissioner shall determine the percentage change in the medical care category of the consumer price index for all urban consumers for the [Honolulu metropolitan area] western region as published by the bureau of labor statistics from April of the previous year to April of the current year. The medical-rehabilitative limit for the next no-fault policy term year shall be the current medical-rehabilitative limit increased or decreased by the product of the current medical-rehabilitative limit multiplied by the percentage change in the medical care index. The medical-rehabilitative limit shall then be rounded to the nearest \$100 for actual use, but the exact value shall be used in subsequent determinations under this section. The commissioner shall use the amount of \$5,000 as the initial threshold base on which calculations shall be made in accordance with this section for the purpose of determining the medical-rehabilitative limit for the next no-fault policy term year."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on January 1, 1987.

(Approved April 29, 1986.)

ACT 109

H.B. NO. 2121-86

A Bill for an Act Relating to Public Assistance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-29, Hawaii Revised Statutes, is amended to read as follows:

“§346-29 Applications for public assistance; manner, form, conditions. Applications for public assistance under this chapter shall be made by the applicant, or by someone acting in the applicant's behalf, in the manner, place, and form prescribed by the department.

No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a standard above that provided in this chapter, or who is an inmate of any public institution as long as the Social Security Act precludes the use of federal funds to provide public assistance to an inmate of such an institution, but an inmate of such an institution mentioned in this section may apply for assistance to begin after the inmate's discharge from the institution. In determining the needs of an applicant or recipient for public assistance by the department, the department:

- (1) Shall disregard such amounts of earned or unearned income and resources as required by the Social Security Act or other federal acts, to receive federal matching funds and may disregard such additional amounts as these acts permit, now or in the future, to be disregarded.
- (2) Shall consider as net income in all cases such income as the Social Security Act or other federal acts may require the department to consider for receipt of federal matching funds and may consider such additional income and resources as these acts may permit, now or in the future, to be considered.
- (3) Shall disregard a total of \$1000 in [liquid] assets [equal to the maximum possible financial assistance by family size multiplied by a factor of 1.5 and rounded to the nearest \$5] in determining the needs of persons for financial assistance; provided that the amount to be disregarded, shall not exceed standards under federally funded financial assistance programs. This provision [shall apply to the general assistance program but] shall not apply to persons eligible for federal supplemental security income benefits. In determining the needs of such persons, the department shall apply the [eligibility] resource retention requirements under the federal supplemental security income program.
- (4) Shall [disregard a total of at least \$1,500 in liquid assets] apply the resource retention requirements under the federal supplemental security income program in determining the needs of a single person for medical assistance only.
- (5) Shall [disregard a total of at least \$2,250 in liquid assets] apply the resource retention requirements under the federal supplemental security income program in determining the needs of a family of two persons for medical assistance only and an additional \$250 for each additional person included in an application for medical assistance only.

In determining eligibility for medical assistance, the department shall require from all applicants and recipients the assignment of any benefits due to a

third party liability. Any rights or amounts so assigned shall be applied against the cost of medical care paid under this chapter.

The director shall adopt rules pursuant to chapter 91 defining ["liquid assets"] assets and to determine eligibility for medical assistance; provided that the cash surrender value of life insurance policies owned by persons included in an application shall be treated as [liquid] assets."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1986.)

ACT 110

H.B. NO. 2345-86

A Bill for an Act Relating to and Authorizing an Adoption Assistance Compact and Procedures for Interstate Services Payments.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER ADOPTION ASSISTANCE COMPACT AND PROCEDURES FOR INTERSTATE SERVICES PAYMENTS

§ -1 **Findings and purposes.** The legislature finds that to obtain adoptive families for children with special needs, states must assure prospective adoptive parents of substantial assistance in meeting the high costs of supporting and providing for the child's special needs. The purpose of this chapter is to authorize the department of social services and housing to enter into interstate agreements for the protection of children who receive adoption assistance from the State.

§ -2 **Definitions.** As used in this chapter, unless the context otherwise requires:

"Adoption assistance" means the payment or payments for the maintenance of a child which are made or committed to be made pursuant to this chapter.

"Adoption assistance state" means the state that is a signatory to an adoption assistance agreement in a particular case.

"Child" means a person less than eighteen years of age, or a person less than twenty-one years of age who has mental or physical handicaps that warrant the continuation of assistance beyond the age of eighteen.

"Child with special needs" means a child for whom the department has determined that:

- (1) The child cannot or should not be returned to the parent's home;
- (2) There exists a specific factor or condition, including but not limited to, ethnic background, age, membership in a minority or sibling group, or physical, emotional or mental handicaps, which make it likely that the child could not be placed with adoptive parents without providing adoption assistance; and

- (3) A reasonable but unsuccessful effort has been made to place the child with appropriate adoptive parents without providing adoption assistance, provided that no attempt need be made when it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in their care as a foster child.

"Department" means the department of social services and housing and its authorized representatives.

"Residence state" means the state of which the child is a resident by virtue of the residence of the adoptive parents.

"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

§ -3 Compacts authorized. The department is authorized to develop and participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of the State. A compact entered into pursuant to this chapter shall have the force and effect of law.

§ -4 Contents of compacts. A compact entered into pursuant to the authority conferred by this chapter shall:

- (1) Provide all states the option of joining;
- (2) Permit the withdrawal from the compact upon one year written notice to all signatories;
- (3) Provide that a state's withdrawal from the compact does not affect its responsibility to continue to provide assistance to those recipients who were receiving assistance pursuant to the compact prior to the effective date of the withdrawal; and
- (4) Require that each case of adoption assistance under the compact be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state which undertakes to provide the adoption assistance.

§ -5 Optional contents of compacts. A compact entered into pursuant to this chapter may:

- (1) Establish procedures and entitlements to medical, developmental, child care, or other social services for the child in accordance with applicable laws;
- (2) Contain other provisions as may be appropriate or incidental to the proper administration of the compact.

§ -6 Medical assistance. (a) For the purposes of this chapter, a child with special needs shall be eligible for a medical assistance identification document if:

- (1) An adoption assistance agreement was entered into on the child's behalf;
- (2) A certified copy of the adoption assistance agreement is filed with the department; and
- (3) The state that entered into the adoption assistance agreement is a signatory to the compact.

At least once a year, the adoptive parents shall be required to show that the adoption assistance agreement is in force.

(b) A holder of medical assistance identification documents pursuant to this chapter shall be treated the same as any other holder of medical assistance identification documents under the laws of this State.

(c) The department shall reimburse the cost of services for a child who is in another state if:

- (1) The child is covered by an adoption assistance agreement made by the department;
- (2) The service is not covered by the resident state;
- (3) The service would have been covered by the State if the child had remained a resident of the State;
- (4) The service is not covered by any insurance or other third party medical contract or arrangement; and
- (5) Evidence of payment for the services sought to be reimbursed is submitted to the department.

(d) This section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this State under which the other state provides medical assistance to children with special needs under adoption assistance agreements made by this State.

§ -7 Federal participation. The department shall include a provision for adoption assistance and medical assistance for which the federal government pays for some or all of the costs in any state plan made pursuant to the Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272 or Social Security Act, Titles IV(e) or XIX."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 29, 1986.)

ACT 111

H.B. NO. 2354-86

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 514A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§514A- Ownership of parking stalls. (a) Apartment owners shall have the right to own or have designated parking stalls to be appurtenant to their respective apartments. Where a developer or association of apartment owners owns parking stalls and rents parking stalls to the owners of the apartments, a majority of these apartment owners may request the appointment of an appraiser to establish a price for each parking stall which may then be negotiated for purchase by the respective owners.

(b) The sales contract for any newly constructed apartment after the effective date of this Act shall include ownership of a parking stall or designate a stall to be appurtenant to the apartment as a limited common element."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 112

H.B. NO. 1803-86

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 521-7, Hawaii Revised Statutes, is amended to read as follows:

“[[]§521-7[]] Exclusions from application of chapter. Unless created solely to avoid the application of this chapter, this chapter shall not apply to:

- (1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, geriatric, educational, religious, or similar services.
- (2) Residence in a structure directly controlled and managed by the University of Hawaii for housing students or faculty of the University of Hawaii or residence in a structure erected on land leased from the University of Hawaii by a nonprofit corporation for the exclusive purpose of housing students or faculty of the University of Hawaii.
- (3) Occupancy under a bona fide contract of sale of the dwelling unit or the property of which it is a part where the tenant is, or succeeds to the interest of, the purchaser.
- (4) Residence by a member of a fraternal organization in a structure operated without profit for the benefit of the organization.
- (5) Transient occupancy on a day to day basis in a hotel or motel.
- (6) Occupancy by an employee of the owner or landlord whose right to occupancy is conditional upon such employment or by a pensioner of the owner or landlord.
- (7) A lease of improved residential land for a term of fifteen years or more, measured from the date of the commencement of the lease.
- (8) Occupancy by the prospective purchaser after an accepted offer to purchase and prior to the actual transfer of the owner's rights.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 1986.)

ACT 113

H.B. NO. 1937-86

A Bill for an Act Relating to Insurance Companies, Freedom of Choice of.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 479, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§479- Scope of chapter. This chapter shall apply only to loans made by lenders engaged in the regular business of making loans.”

SECTION 2. Section 479-2, Hawaii Revised Statutes, is amended to read as follows:

"§479-2 Written notice required. Any corporation, copartnership, association, individual, or group of individuals making a loan and requiring that the borrower carry insurance as a condition to the making of the loan, shall give the borrower written notice that [he is free to procure the required insurance policy from any insurance company authorized to do business in the State.] the lender may not make the granting of the loan contingent on the procuring of the insurance policy with an insurance company designated by the lender. Written notice substantially stating that the insurer for any required insurance may be chosen by the borrower will also constitute compliance with this section."

SECTION 3. Section 479-3, Hawaii Revised Statutes, is amended to read as follows:

"§479-3 [Violation bars recovery of loan.] Civil penalty. Violation of this chapter shall [constitute a bar to the recovery of any part of the interest] entitle the borrower to recovery of a civil penalty of \$5,000 in any proceeding at law[,] brought within three years of the violation or by way of recoupment and the violator shall be liable further for the actual damages of the borrower, if any, reasonable attorneys' fees and court costs."

SECTION 4. Section 479-4, Hawaii Revised Statutes, is amended to read as follows:

"§479-4 [Penalty.] Criminal penalty. Violation of this chapter which is knowing and intentional shall also constitute a misdemeanor [and shall be punishable by a fine of not more than \$1,000 or imprisonment of not more than one year, or both]."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved April 30, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 114

H.B. NO. 1944-86

A Bill for an Act Relating to Trust Companies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 406, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§406- Additional powers. With the prior written consent of the commissioner of financial institutions, any trust company or bank authorized to engage in a trust business and organized under the laws of the State may provide to its trust and agency clients access to balances in their trust or agency accounts through checks, drafts, credit cards, or debit cards; provided these transactions are cleared through commercial banks or savings and loan associations or clearinghouses.

The provisions of this section are in addition to, and not in limitation of, any other provisions in this chapter, and the powers granted pursuant to this section may be exercised notwithstanding any other provision in this chapter.

The commissioner may adopt, amend, and repeal rules limiting the exercise of powers granted pursuant to this section, and grant conditional consents to applications for the authority to exercise the powers granted by this section, as the commissioner may find to be necessary to avoid unsound trust company practices.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 115

H.B. NO. 1981-86

A Bill for an Act Relating to Forfeiture of Animals.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-11, Hawaii Revised Statutes, is amended to read as follows:

“§142-11 Forfeiture of animals, etc. All animals, fodder, fittings, or effects landed contrary to this chapter[,] or taken or removed from quarantine before being duly discharged, shall be forfeited to the use of the State. All animals brought into quarantine grounds[,] or placed with any animals under quarantine[,] or placed into provisional quarantine, shall be deemed to come under this chapter[,] and shall be subject to all the conditions of the same.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 1986.)

ACT 116

H.B. NO. 2495-86

A Bill for an Act Relating to Lifeline Telephone Service.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to specifically authorize the public utilities commission to allow telephone public utilities to offer lifeline telephone service rates to eligible residential customers. Further, this Act prescribes criteria for eligibility for lifeline telephone service and provides a means for funding lifeline telephone service by allowing telephone public utilities a tax credit, equal to their respective lifeline service rate subsidy, to be applied against the company's public service company tax liability.

SECTION 2. Chapter 239, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§239- Tax credit for lifeline telephone service subsidy. A telephone public utility subject to this chapter that has been authorized to establish lifeline

telephone service rates by the public utilities commission shall be allowed a tax credit, equal to the lifeline telephone service costs incurred by the utility, to be applied against the utility's tax imposed by this chapter. The amount of this credit shall be determined and certified annually by the public utilities commission. The tax liability for a telephone public utility claiming the credit shall be calculated in the manner prescribed in section 239-5; provided that the amount of tax due from the utility shall be net of the lifeline service credit."

SECTION 3. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§269- Lifeline telephone rates. (a) The public utilities commission shall implement a program to achieve lifeline telephone rates for residential telephone users.

(b) "Lifeline telephone rate" means a discounted rate for residential telephone users identified as the elderly with limited income and the handicapped with limited income as designated by the commission.

(c) The commission shall require every telephone public utility providing local telephone service to file a schedule of rates and charges providing a rate for lifeline telephone subscribers.

(d) Nothing in this section shall preclude the commission from changing any rate established pursuant to subsection (a) either specifically or pursuant to any general restructuring of all telephone rates, charges, and classifications."

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved April 30, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 117

S.B. NO. 1188

A Bill for an Act Relating to the Department of Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 325-76, Hawaii Revised Statutes, is amended to read as follows:

"§325-76 Examinations for tuberculosis. [The department of health shall provide for the giving to all persons applying a free examination, with such x-ray and other tests as may be appropriate, for tuberculosis.] (a) Examinations for tuberculosis required or recommended by the department of health, including skin tests, x-rays, and other tests as may be appropriate for tuberculosis control purposes, shall be provided by the department at no charge.

(b) If any person suspected of having communicable tuberculosis by the department of health refuses to complete the examinations ordered by the department after having been notified by the department that such examinations are necessary, any court of competent jurisdiction, upon application to the court by the department, may order the person to be examined in a manner and by a facility acceptable to the department of health."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1986.)

ACT 118

S.B. NO. 1837-86

A Bill for an Act Relating to Medical Use of Bodies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 327, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§327- Requests for anatomical gifts. Any person in charge of a hospital, or the designated representative of the person in charge of the hospital, other than a person connected with the determination of death, may request any of the persons in section 327-2(b), in the order of priority stated, to give consent to the gift of all or any part of the decedent's body to any potential donee for any purpose provided in section 327-3."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 119

S.B. NO. 2038-86

A Bill for an Act Relating to Family Court.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-44, Hawaii Revised Statutes, is amended to read as follows:

"§571-44 Physical or mental examination and treatment. The court may order that a child or minor concerning whom a petition has been filed shall be examined by a physician, surgeon, psychiatrist, or psychologist, and it may order treatment, by them, of a child or minor who has been adjudicated by the court. For either the examination or treatment, the court may place the child or minor in a hospital or other suitable facility. The court, after hearing, may order examination by a physician, surgeon, psychiatrist, or psychologist, of a parent or guardian whose ability to care for a child before the court is at issue.

No child under the age of twelve shall be adjudged to come within section 571-11(1) without the written recommendation of a licensed psychologist or of a psychiatrist or other physician duly qualified by special training and experience in the practice of child psychiatry."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon approval.

(Approved May 6, 1986.)

Note

1. No bracketed material.

ACT 120

S.B. NO. 2309-86

A Bill for an Act Relating to Passenger Carriers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§46- Public passenger vehicle regulation. (a) The legislature finds and declares the following:

- (1) The orderly regulation of vehicular traffic on the streets and highways of Hawaii is essential to the welfare of the State and its people.
- (2) Privately-operated public passenger vehicle service provides vital transportation links within the State. Public passenger vehicle service operated in the counties and the city and county enables the State to provide the benefits of privately-operated, demand-responsive transportation services to its people and to persons who travel to the State for business or tourist purposes.
- (3) The economic viability and stability of privately-operated public passenger vehicle service is consequently a matter of statewide importance.
- (4) The policy of the State is to promote safe and reliable privately-operated public passenger vehicle service in order to provide the benefits of that service. In furtherance of this policy, the legislature recognizes and affirms that the regulation of privately-operated public passenger vehicle service is an essential governmental function.
- (5) The policy of the State is to require that counties regulate privately-operated public passenger vehicle service and not subject a county or a city and county or its officers to liability under the federal antitrust laws.

(b) Any other law to the contrary notwithstanding, where not within the jurisdiction of the public utilities commission, every county or city and county may provide rules to protect the public health, safety, and welfare by licensing, controlling, and regulating by ordinance or resolution, public passenger vehicle service operated within the jurisdiction of the county or city and county.

(c) Every county or city and county is empowered to regulate:

- (1) Entry into the business of providing public passenger vehicle service within the jurisdiction of that county or city and county.
- (2) The rates charged for the provision of public passenger vehicle service.
- (3) The establishment of standards to be employed by one or a limited number of providers of public passenger vehicle service."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 121

S.B. NO. 81

A Bill for an Act Relating to Maintenance of Drainageways.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the maintenance of drainageways is of statewide concern, and that this interest must be balanced with interests of the State, county governments, and the private sector. The purpose of this Act is to define and clarify the responsibility for maintaining streams, to protect the health, safety, and welfare of the people of Hawaii.

SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§46- Maintenance of channels, streambeds, streambanks, and drainageways. Notwithstanding any law to the contrary, each county shall provide for the maintenance of channels, streambeds, streambanks, and drainageways, whether natural or artificial, including their exits to the ocean, in suitable condition to carry off storm waters; and for the removal from the channels, streambeds, streambanks, and drainageways and from the shores and beaches any debris which is likely to create an unsanitary condition or otherwise become a public nuisance; provided that to the extent any of the foregoing work is a private responsibility the responsibility may be enforced by the county in lieu of the work being done at county expense, and any private entity or person refusing to comply with any final order issued by the county shall be in violation of this chapter and be liable for a civil penalty not to exceed \$500 for each day the violation continues; provided further that it shall be the responsibility of the county to maintain all channels, streambeds, streambanks, and drainageways unless such channels, streambeds, streambanks, and drainageways are privately owned or owned by the State, in which event such channels, streambeds, streambanks, and drainageways shall be maintained by their respective owners.”

SECTION 3. Section 179-4, Hawaii Revised Statutes, is amended to read:

“§179-4 Powers, duties,¹ and jurisdiction of the board. In addition to those powers and responsibilities of the board of land and natural resources established by existing law, the board is authorized to implement the declared purposes of this chapter with regard to flood control and flood water conservation in the following manner:

- (1) Coordinate the programs and activities of all agencies of the State, in conformance with the objectives of the statewide flood control program.
- (2) Compile, evaluate, interpret, and disseminate information for technical use and for the general information and education of the people of the State.
- (3) Render technical assistance to the political subdivisions and other agencies of the State only upon request of the affected agencies in matters of master planning, zoning, qualifying for, and constructing federal and state flood control projects, the training of flood fighting units, and related flood control activities.

- (4) With regard to federal flood control projects:
 - (A) Review plans submitted by federal agencies for state approval and make appropriate recommendations to the governor;
 - (B) Formulate and recommend to the legislature a general policy for state participation with the political subdivisions in the assurances of local cooperation required by federal flood control acts;
 - (C) Review requests from political subdivisions for financial assistance in meeting local participation requirements and make appropriate recommendations to the legislature; and
 - (D) Execute and administer agreements with political subdivisions to implement state assurances of participation in federal flood control projects.
- (5) For meritorious proposed projects which do not meet feasibility standards for federal flood control projects:
 - (A) Formulate state feasibility criteria and project funding procedures;
 - (B) Study, evaluate, and determine the feasibility of proposed projects in accordance with established criteria and make recommendations to the legislature;
 - (C) Execute and administer agreements with political subdivisions to assure compliance with the conditions of state projects; and
 - (D) Design, prepare plans and specifications, obtain bids, let contracts, and supervise the construction of state flood control works.
- (6) With regard to projects initiated and financed entirely by political subdivisions, render coordination and aid only if requested by the respective agencies.
- (7) With regard to state ownership of drainageways, coordinate the resolution of drainageway maintenance problems with the appropriate state agency or agencies.
- (8) With regard to multiple jurisdiction of drainageways, the board shall coordinate the resolution of drainageway maintenance problems with all affected political subdivisions.
- (9) With regard to certain streambeds, streambanks, and drainageways whose ownership is not claimed nor determined, the board shall coordinate the resolution of streambed, streambank, and drainageway maintenance problems with the appropriate state agency or agencies.
- (10) The board may promulgate rules to implement this chapter."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 5. This Act shall take effect upon its approval.

(Approved May 8, 1986.)

Notes

1. Comma should be underscored.
2. No bracketed material. Edited pursuant to HRS §23G-16.5.

ACT 122

S.B. NO. 310

A Bill for an Act Relating to Reconstructed Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-85, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§286-85~~]]~~ **Reconstructed vehicles, approval required.** (a) No person shall operate a reconstructed vehicle upon a public highway unless it has been inspected and certified by the designated county agency as meeting the specifications and requirements established in rules and regulations adopted by the state director of transportation.

(b) This section shall not apply to any vehicle which is subject to the rules and regulations of the public utilities commission governing safety of operation and equipment.

(c) Each county through its chief executive officer, shall designate a county department, whose responsibilities shall include the inspection of reconstructed vehicles and the issuance of permits to operate reconstructed vehicles pursuant to standards established by the state director of transportation.

(d) The state director of transportation shall adopt rules pursuant to chapter 91, establishing the fees an inspector may charge for the inspection of a reconstructed vehicle.

(e) The department designated pursuant to subsection (c) shall identify to the county director of finance every vehicle that has been inspected and approved as a reconstructed vehicle.

(f) This section shall not apply to any privately owned reconstructed vehicle in a county with a population of less than 500,000.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1986.)

ACT 123

S.B. NO. 383

A Bill for an Act Relating to the Special Summer School Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

“§36-27 **Transfers from special funds for central service expenses.** Except as hereinafter provided, and notwithstanding any provisions of any other law to the contrary, there shall be deducted from time to time by the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the special summer school fund under section 298-3.5; the school cafeteria special funds of the community colleges, the department of education, and the university laboratory school; and the special funds of the student housing, summer session, [the] division of continuing education and community service, campus center, and [the] bookstores of the University of Hawaii, five per cent of all receipts of

each such special fund, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers.”

SECTION 2. Section 36-30, Hawaii Revised Statutes, is amended to read as follows:

“§36-30 Special fund reimbursements for departmental administrative expenses. Each special fund, except the special summer school fund under section 298-3.5; the school cafeteria special funds of the community colleges, the department of education, and the university laboratory school; and the special funds of the student housing, summer session, [the] division of continuing education and community service, campus center, and [the] bookstores of the University of Hawaii, shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned. Administrative expenses shall include, but shall not be limited to, salaries, maintenance of buildings and grounds, utilities, and general office expenses. The pro rata share of each special fund shall be that proportion of the administrative expenses of the department, including those paid from all special funds administered by the department, which the expenditures of the special fund bear to the total expenditures of the department; provided[,], that in determining the amount to be charged to each special fund for its pro rata share, credit shall be given for any administrative expenses paid from the special fund concerned and such other adjustments shall be made as may be necessary to achieve an equitable apportionment. The director of finance may determine the amount to be charged to each special fund[,], and may cause the amounts to be transferred to the general funds as reimbursements.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 8, 1986.)

ACT 124

S.B. NO. 1678-86

A Bill for an Act Relating to Notification of Owners of Properties Included Within and Adjoining Areas Being Designated Geothermal Resource Subzones.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 205-5.2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) After the board has completed a county-by-county assessment of all areas with geothermal potential or after any subsequent update or review, the board shall compare all areas showing geothermal potential within each county, and shall propose areas for potential designation as geothermal resource subzones based upon a preliminary finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Once such a proposal is made, the board shall conduct public

hearings pursuant to this subsection, notwithstanding any contrary provision related to public hearing procedures.

- (1) Hearings shall be held at locations which are in close proximity to those areas proposed for designation. A public notice of hearing, including a description of the proposed areas, an invitation for public comment, and a statement of the date, time, and place where persons may be heard shall be published and mailed no less than twenty days before the hearing. The notice shall be published on three separate days in a newspaper of general circulation statewide and in the county in which the hearing is to be held. Copies of the notice shall be mailed to the department of planning and economic development, [and] to the planning commission and planning department of the county in which the proposed areas are located[.], and to all owners of record of real estate within, and within one thousand feet of, the area being proposed for designation as a geothermal resource subzone. The notification shall be mailed to the owners and addresses as shown on the current real property tax rolls at the county real property tax office. Upon such action, the requirement for notification of owners of land is completed. For the purposes of this subsection, notice to one co-owner shall be sufficient notice to all co-owners.
- (2) The hearing shall be held before the board, and the authority to conduct hearings shall not be delegated to any agent or representative of the board. All persons and agencies shall be afforded the opportunity to submit data, views, and arguments either orally or in writing. The department of planning and economic development and the county planning department shall be permitted to appear at every hearing and make recommendations concerning each proposal by the board.
- (3) At the close of the hearing, the board may designate areas as geothermal resource subzones or announce the date on which it will render its decision. The board may designate areas as geothermal resource subzones only upon finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Upon request, the board shall issue a concise statement of its findings and the principal reasons for its decision to designate a particular area."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1986.)

ACT 125

H.B. NO. 1905-86

A Bill for an Act Relating to Motor Vehicle Industry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. [[(a)]] The following chapters are hereby repealed effective December 31, 1986:

- [(1)] Chapter 437 (Motor Vehicle Industry Licensing Board)
- [(2)] [(1)] Chapter 437B (Motor Vehicle Repair Industry Board)
- [(3)] [(2)] Chapter 440 (Boxing Commission)
- [(4)] [(3)] Chapter 460J (Pest Control Board)
- [(5)] [(4)] Chapter 438 (Board of Barbers)
- [(6)] [(5)] Chapter 439 (Board of Cosmetology)

[[(b)]] The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)
- (7) Chapter 455 (Board of Examiners in Naturopathy)

[[(c)]] The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)
- (7) Chapter 442 (Board of Chiropractic Examiners)
- (8) Chapter 448 (Board of Dental Examiners)
- (9) Chapter 436E (Board of Acupuncture)

[[(d)]] The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)

[[(e)]] The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 462A (Pilotage)

[[(f)]] The following [[chapters are]] hereby repealed effective December 31, 1991:

- [[(1)]] Chapter 448H (Elevator Mechanics Licensing Board)
- [[(2)]] Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- [[(3)]] Chapter 457B (Board of Examiners of Nursing Home Administrators)
- [[(4)]] Chapter 460 (Board of Osteopathic Examiners)
- [[(5)]] Chapter 461 (Board of Pharmacy)
- [[(6)]] Chapter 461J (Board of Physical Therapy)
- [[(7)]] Chapter 463E (Podiatry)[.]

(g) The following chapter is hereby repealed effective December 31, 1992:

(1) Chapter 437 (Motor Vehicle Industry Licensing Board).”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1986.)

ACT 126

H.B. NO. 1908-86

A Bill for an Act Relating to Pest Control.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. [[](a)[]] The following chapters are hereby repealed effective December 31, 1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- [(4)] Chapter 460J (Pest Control Board)
- (5) [(4)] Chapter 438 (Board of Barbers)

[(6)] [(5)] Chapter 439 (Board of Cosmetology)

[[](b)[]] The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)
- (7) Chapter 455 (Board of Examiners in Naturopathy)

[[](c)[]] The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)
- (7) Chapter 442 (Board of Chiropractic Examiners)
- (8) Chapter 448 (Board of Dental Examiners)
- (9) Chapter 436E (Board of Acupuncture)

[[](d)[]] The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)

[[](e)[]] The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 462A (Pilotage)
- (5) Chapter 460J (Pest Control Board)

[[](f)[]] The following [[] chapters are[[]] hereby repealed effective December 31, 1991:

- [[](1)[]] Chapter 448H (Elevator Mechanics Licensing Board)
- [[](2)[]] Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- [[](3)[]] Chapter 457B (Board of Examiners of Nursing Home Administrators)
- [[](4)[]] Chapter 460 (Board of Osteopathic Examiners)
- [[](5)[]] Chapter 461 (Board of Pharmacy)
- [[](6)[]] Chapter 461J (Board of Physical Therapy)
- [[](7)[]] Chapter 463E (Podiatry)."

SECTION 2. Section 460J-3, Hawaii Revised Statutes, is amended to read as follows:

"[] §460J-3[]] **Powers and duties of board.** In addition to any other duties and powers granted by this chapter the board shall:

- (1) Grant licenses to operators pursuant to this chapter;
- (2) [Make,] Adopt, amend, or repeal [such] rules [and regulations] as it may deem necessary to effectuate this chapter and carry out the purpose thereof which purpose is the protection of the general public. All [such] rules [and regulations] shall be adopted pursuant to chapter 91. [Such] The rules [and regulations may] shall:
 - (A) Forbid acts or practices deemed by the board to be detrimental to the accomplishment of the purpose of this chapter;
 - (B) Require operators to make reports to the board containing [such] items of information [as] that will [better] enable the board to [enforce] improve the enforcement of this chapter and its rules [and regulations or more] to fully [to] effectuate the purposes of this chapter;
 - (C) Require operators to furnish reports to owners containing [such] matters of information as the board deems necessary to promote the purpose of this chapter;
 - (D) Require liability insurance verification for license renewals;
 - (E) Provide for the development of an enforcement information reporting system;
- (3) Enforce this chapter and rules [and regulations] adopted pursuant thereto;
- (4) Suspend or revoke any license for any cause prescribed by this chapter, or for any violation of the rules [and regulations], and refuse to grant any license for any cause which would be grounds for revocation or suspension of a license;
- (5) Direct the executive secretary to publish and distribute pamphlets and circulars containing [such] information as it deems proper to further the accomplishment of the purpose of this chapter."

SECTION 3. Section 460J-8, Hawaii Revised Statutes, is amended to read as follows:

“§460J-8 No license issued when. No license shall be issued to:

- (1) Any person unless he has filed an application therefor;
- (2) Any person who does not possess a good reputation for honesty, truthfulness, financial integrity, and fair dealing;
- (3) (2) Any partnership or joint venture unless one member of the partnership or joint venture who actively participates in the pest control business thereof holds an appropriate license;
- (4) (3) Any corporation unless the pest control business thereof is under the direct management of an officer who holds an appropriate license;
- (5) (4) Any individual unless he is of the age of eighteen years or more;
- (6) (5) Any person unless he submits satisfactory proof to the board that he has obtained workers' compensation insurance or has been authorized to act as a self-insurer as required by chapter 386.”

SECTION 4. Section 460J-9, Hawaii Revised Statutes, is amended to read as follows:

“§460J-9 Application; fees. (a) Every applicant for a license under this chapter shall file an application on forms prescribed or required by the board, and shall furnish any additional information bearing upon the issuance of the license as the board requires[.]; provided that the board shall not require any applicant to furnish a statement of the applicant's financial condition. Every application shall be sworn to before an officer authorized to administer oaths and shall be accompanied by the application and examination fees. In the case of a copartnership, joint venture, or corporation, any licensed member or officer therefor may sign the application and verify the same on behalf of the applicant and every application shall be accompanied by the application and license fees. In the case of a proprietorship, every application shall be accompanied by the application and license fees.

(b) Every application, in the case of an individual, shall be accompanied by sworn certificates of not less than two persons who have known the applicant for a period of not less than six months, certifying that the applicant bears a good reputation for honesty, truthfulness, and fair dealing.

(c) (b) Every application for a license by an individual who passed the examination shall be accompanied by a license fee.”

SECTION 5. Section 460J-18, Hawaii Revised Statutes, is amended to read as follows:

“[[]§460J-18[]] [Accusations against licensees, when to be filed.] Lapse of license not a bar to jurisdiction. [All accusations against licensees shall be filed within two years after the act or omission alleged as the ground for revocation or suspension of a license, except that with respect to accusations alleging a violation of section 460J-15(4), the accusation may be filed within two years after the discovery by the board of the alleged facts constituting the fraud or misrepresentation prohibited by section 460J-15(4).] The lapsing or suspension of a license by operation of law or by order of the board or a court of law or the voluntary suspension of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or proceeding against the licensee, or to render a decision suspending or revoking the license.”

SECTION 6. Section 460J-27, Hawaii Revised Statutes, is amended to read as follows:

“[]§460J-27[] [Violation of chapter; penalty.] Penalties for unlicensed acts. [Any person who violates this chapter, or who conspires with another person to violate this chapter shall be fined not less than \$500 or imprisoned for not more than six months, or both.] Any person or business organization that violates the provisions of section 460J-6 shall not be fined less than \$5,000.”

SECTION 7. Chapter 460J, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

“§460J- Administrative penalties. Any person who violates this chapter or the rules adopted pursuant thereto may be fined not more than \$2,500 for each violation.

§460J- Penal sanctions. Any person who violates this chapter, or who conspires with another to violate this chapter, shall be fined not more than \$2,500.

§460J- Remedies or penalties cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

§460J- Appeal to circuit court. An applicant who has been refused a license and every licensee whose license has been suspended, revoked, or not renewed may appeal the board’s decision to the circuit court of the circuit in which the applicant or licensee resides in the manner provided in chapter 91.”

SECTION 8. The Board of Pest Control shall report to the legislature on its progress in implementing the Auditors’ recommendations contained in the sunset evaluation report on pest control operators (Report No. 86-1) prior to the convening of the Regular Session of 1987.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 10. This Act shall take effect upon its approval.

(Approved May 8, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 127

H.B. NO. 2027-86

A Bill for an Act Relating to Public Utilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 269-7.5, Hawaii Revised Statutes, is amended to read as follows:

“[]§269-7.5[]] Certificates of public convenience and necessity. (a) No [person which holds itself out to the general public as a] public utility, as defined in section 269-1, shall commence its business without first having obtained from the commission a certificate of public convenience and necessity. Applications for certificates shall be made in writing to the commission and shall comply with the requirements prescribed in the commission’s [regulations, and rules of

practice and procedure] rules. The application shall include the type of service to be performed, the geographical scope of the operation, the type of equipment to be employed in the service, the name of competing utilities for the proposed service, a statement of its financial ability to render the proposed service, a current financial statement of the applicant, and the rates or charges proposed to be charged including the rules and regulations governing the proposed service.

(b) A certificate shall be issued to any qualified applicant [therefor], authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the terms, conditions, and rules [and regulations promulgated] adopted by the commission [thereunder], and that the proposed service is, or will be, required by the present or future public convenience and necessity; otherwise [such] the application shall be denied. Any certificate issued shall specify the service to be rendered and there shall be attached to the exercise of the privileges granted by the certificate at the time of issuance and from time to time thereafter, such reasonable conditions and limitations as a public convenience and necessity may require. The reasonableness of the rates, charges, and tariff rules and regulations proposed by the applicant shall be determined by the commission during the same proceeding examining the present and future conveniences and needs of the public and qualifications of the applicant, in accordance with the standards set forth in section 269-16.

(c) No public utility which holds a franchise or charter enacted or granted by the legislative or executive authority of the State or its predecessor governments, or which has a bona fide operation as a public utility heretofore recognized by the commission, shall be required to obtain a certificate of public convenience and necessity under this section.

(d) Any certificate may, upon application of the holder [thereof] and [in] at the discretion of the public utilities commission, be amended, suspended, or revoked, in whole or in part. The commission after notice and hearing may suspend, amend, or revoke any certificate in part or in whole, if the holder [thereof] is found to be in wilful violation of any of the provisions of this chapter or with any lawful order[,] or rule [or regulation] of the commission [promulgated] adopted thereunder, or with any term, condition, or limitation of the certificate."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1986.)

ACT 128

S.B. NO. 471

A Bill for an Act Relating to the Compensation of Public Officers and Employees and Making an Appropriation Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Chapter 26, Hawaii Revised Statutes, is amended as follows:

1. Section 26-51 is amended to read:

"§26-51 Governor; lieutenant governor. Effective [July 1, 1981,] January 1, 1986, the salary of the governor of the State shall be [\$55,000] \$80,000 a year. [Effective July 1, 1982, the salary of the governor of the State shall be \$59,400 a year.] Effective [July 1, 1981,] January 1, 1986, the salary of the lieutenant governor shall be [\$49,500] \$76,000 a year. [Effective July 1, 1982, the salary of the lieutenant governor shall be \$53,460 a year.]"

2. Section 26-52 is amended to read:

"§26-52 Department heads and executive officers. The salaries of the following state officers shall be as follows:

- (1) [The] Effective January 1, 1986, the salary of the superintendent of education shall be [\$50,490] \$76,000 a year.
- (2) The salary of the president of the University of Hawaii shall be set by the board of regents, but shall not exceed \$95,000 a year.
- (3) [The] Effective January 1, 1986, the salaries of all department heads or executive officers of the departments of accounting and general services, agriculture, attorney general, budget and finance, commerce and consumer affairs, Hawaiian home lands, health, labor and industrial relations, land and natural resources, personnel services, planning and economic development, social services and housing, taxation, and transportation shall be [\$50,490] \$68,400 a year.
- (4) [The] Effective January 1, 1986, the salary of the adjutant general shall be [\$50,490] \$68,400 a year. If the salary is in conflict with the pay and allowance fixed by the tables of the regular army of the United States, the latter shall prevail."

3. Section 26-53 is amended to read:

"§26-53 Deputies or assistants to department heads. (a) Effective [July 1, 1981,] January 1, 1986, the salaries of first deputies or first assistants to the head of any department of the State, other than the department of education, shall be [\$44,000] \$61,560 a year, and the salaries of second deputies or second assistants shall be [\$41,250] \$55,404 a year. [Effective July 1, 1982, the salaries of first deputies or first assistants to the head of any department of the State shall be \$47,520 a year, and the salaries of second deputies or second assistants shall be \$44,550 a year.]

(b) Effective January 1, 1986, the salary of the deputy to the superintendent of education shall be \$68,400 a year."

4. Section 26-54 is amended to read:

"§26-54 Administrative director of the State. Effective [July 1, 1981,] January 1, 1986, the salary of the administrative director of the State shall be [\$46,750] \$68,400 a year. [Effective July 1, 1982, the salary of the administrative director of the State shall be \$50,490 a year.]"

SECTION 2. Section 29-1, Hawaii Revised Statutes, is amended to read as follows:

"§29-1 Establishment of office. There shall be in Washington, District of Columbia, a Hawaii office of federal programs coordinator. The office shall be headed by a coordinator who shall be appointed and removed by the governor, not subject to chapters 76, 77, and 89. [Effective July 1, 1981, the salary of the federal programs coordinator shall be \$35,750 a year.] Effective July 1, 1982, the salary shall be \$38,610 a year. Effective July 1, 1986, the salary of the federal

programs coordinator shall be \$0 a year. The coordinator shall appoint necessary staff, within available appropriations, not subject to chapters 76, 77, and 89.

The office is placed within the department of budget and finance for administrative purposes."

SECTION 3. Section 89-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is created a Hawaii labor relations board composed of three members of which (1) one member shall be representative of management, (2) one member shall be representative of labor, and (3) the third member, the chairperson, shall be representative of the public. All members shall be appointed by the governor for terms of six years each. Public employers and employee organizations representing public employees may submit to the governor for consideration names of persons representing their interests to serve as members of the board and the governor shall first consider these persons in selecting the members of the board to represent management and labor. Each member shall hold office until his successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper administration of this chapter, it is declared to be in the public interest to continue board members in office as long as efficiency is demonstrated, notwithstanding the provision of section 26-34, which limits the appointment of a member of a board or commission to two terms.

The members shall devote full-time to their duties as members of the board. Effective [July] January 1, [1982,] 1986, the salary of the chairperson of the board shall be [\$47,520] \$61,560 a year[,] and the salary of each of the other members shall be [\$44,550] \$55,404 a year. No member shall hold any other public office or be in the employment of the State or a county, or any department or agency thereof, or any employee organization during his term.

Any action taken by the board shall be by a simple majority of the members of the board. All decisions of the board shall be reduced to writing and shall state separately its finding of fact and conclusions. Any vacancy in the board shall not impair the authority of the remaining members to exercise all the powers of the board. The governor may appoint an acting member of the board during the temporary absence from the State or the illness of any regular member. An acting member, during his term of service, shall have the same powers and duties as the regular member.

The chairperson of the board shall be responsible for the administrative functions of the board. The board may appoint an executive officer, mediators, members of fact-finding boards, arbitrators, and hearing officers, and employ other assistants as it may deem necessary in the performance of its functions, prescribe their duties, and fix their compensation and provide for reimbursement of actual and necessary expenses incurred by them in the performance of their duties within the amounts made available by appropriations therefor. The provisions of section 103-3 notwithstanding, an attorney employed by the board as a full-time staff member may represent the board in litigation, draft legal documents for the board, and provide other necessary legal services to the board and shall not be deemed to be a deputy attorney general.

The board shall be within the department of labor and industrial relations for budgetary and administrative purposes only. The members of the board and employees other than clerical and stenographic employees shall be exempt from chapters 76 [and 77.], 77, and 89. Clerical and stenographic employees shall be appointed in accordance with chapters 76 and 77.

At the close of each fiscal year, the board shall make a written report to the governor of such facts as it may deem essential to describe its activities, including the cases and their dispositions, and the names, duties, and salaries of its officers and employees. Copies of the report shall be transmitted to the legislative bodies."

SECTION 4. Section 89A-1, Hawaii Revised Statutes, is amended to read as follows:

"§89A-1 Office of collective bargaining in the state government established. There shall be established an office of collective bargaining in the office of the governor to assist the governor in negotiating with and entering into written agreements between the public employers and the exclusive representatives on matters of wages, hours, and other negotiable terms and conditions of employment.

The position of chief negotiator for the State is hereby established to head the office. The chief negotiator shall be experienced in labor relations. The governor shall appoint and remove the chief negotiator and the deputy negotiators, who shall not be subject to chapters 76 [and], 77[.], and 89. Effective [July] January 1, [1982,] 1986, the salary of the chief negotiator shall be [\$47,520] \$61,560 a year. The chief negotiator and deputy negotiators shall be included in any benefit program generally applicable to the officers and employees of the State. All other employees shall be appointed in accordance with chapters 76 and 77. The chief negotiator shall serve as one of the governor's designated representatives as set forth in section 89-6(b)."

SECTION 5. Section 109-2, Hawaii Revised Statutes, is amended to read as follows:

"§109-2 Stadium authority; powers and duties. The powers and duties of the stadium authority shall be as follows:

- (1) To maintain, operate, and manage the stadium and related facilities.
- (2) To prescribe and collect rents, fees, and charges for the use or enjoyment of the stadium or any of its facilities.
- (3) To make and execute contracts and other instruments necessary or convenient to exercise its powers under this chapter and subject to any limitations in this chapter, to exercise all powers necessary, incidental, or convenient to carry out and effectuate the purposes and provisions of this chapter.
- (4) To make, amend, and repeal in accordance with chapter 91 such rules as it may deem necessary.
- (5) To appoint a manager and a deputy manager who shall have such qualifications as the authority deems necessary and who shall hold their respective offices at the pleasure of the authority. The manager and deputy manager shall be exempt from the requirements of chapters 76 [and 77.], 77, and 89. Effective [July 1, 1981,] January 1, 1986, the salary of the manager shall be [\$46,750] \$61,560 a year [and, effective July 1, 1982, the salary of the manager shall be \$47,520 a year]. Effective [July 1, 1981,] January 1, 1986, the salary of the deputy manager shall be [\$42,075] \$55,404 a year [and, effective July 1, 1982, the salary of the deputy manager shall be \$44,550 a year]. The manager shall have full power to administer the affairs of the stadium and related facilities, subject to the direction and approval of the authority. The manager shall, subject to the approval of the authority, have power to appoint, suspend,

and discharge such other employees, subordinates, and assistants as may be necessary for the proper conduct of the business of the authority. Except for persons hired on contract or otherwise as provided in section 109-3 and except for the manager and deputy manager, all appointments, suspensions, or discharges shall be made in conformity with the applicable provisions of chapters 76 and 77."

SECTION 6. Section 164-1, Hawaii Revised Statutes, is amended to read as follows:

"§164-1 Establishment of the governor's agriculture coordinating committee. There is established, in the governor's office for administrative purposes, the governor's agriculture coordinating committee, whose membership shall include the special assistant for agriculture, office of the governor, who shall be the chairperson, the director of planning and economic development, the chairperson of the board of land and natural resources, the chairperson of the board of agriculture, the director of transportation, the chairperson of the Hawaiian Homes Commission, or their respective deputies, the dean of the college of tropical agriculture and human resources, or at the designation of the dean, the director of the Hawaii institute of tropical agriculture and human resources, and three farmers, one of whom shall be a representative of a recognized nonprofit association of farmers. All members of the committee shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of the duties and responsibilities of the committee. Effective [July 1, 1981,] January 1, 1986, the salary of the special assistant to the governor for agriculture shall be [\$26,466. Effective July 1, 1982, the salary of the special assistant to the governor for agriculture shall be \$28,584.] \$36,026 a year."

SECTION 7. Section 269-2, Hawaii Revised Statutes, is amended to read as follows:

"§269-2 Public utilities commission; number, appointment of commissioners, qualifications; compensation; persons having interest in public utilities. There shall be a public utilities commission of three members, to be called commissioners, and who shall be appointed in the manner prescribed in section 26-34, except as otherwise provided in this section. All members shall be appointed for terms of six years each, except that the terms of the members first appointed shall be for two, four, and six years, respectively, as designated by the governor at the time of appointment. The governor shall designate a member to be [chairman] chairperson of the commission. Each member shall hold office until his successor is appointed and qualified. Section 26-34 shall not be applicable insofar as it relates to the number of terms and consecutive number of years a member can serve on the commission; provided that no member shall serve more than twelve consecutive years.

In appointing commissioners, the governor shall select persons who have had experience in accounting, business, engineering, government, finance, law, or other similar fields. The commissioners shall devote full time to their duties as members of the commission and no commissioner shall hold any other public office or other employment during his term of office. No person owning any stock or bonds of any public utility corporation, or having any interest in, or deriving any remuneration from, any public utility shall be appointed a commissioner.

Effective [July 1, 1981,] January 1, 1986, the [chairman] chairperson of the commission shall be paid a salary of [\$46,750] \$61,560 a year, and each of

the other commissioners shall be paid a salary of [\$44,413] \$55,404 a year. [Effective July 1, 1982, the chairman shall be paid a salary of \$47,520 a year, and each of the other commissioners shall be paid a salary of \$44,550 a year.] The commissioners shall be exempt from chapters 76 [and 77], 77, and 89 but shall be members of the state employees retirement system and shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State, including those under chapter 87.

The commission is placed within the department of budget and finance for administrative purposes."

SECTION 8. Section 297-31.5, Hawaii Revised Statutes, is amended to read as follows:

"§297-31.5 Salary; assistant superintendents, district superintendents, deputy district superintendents. The salaries of assistant superintendents, district superintendents, and deputy district superintendents shall be set by the board. Effective [July 1, 1981,] January 1, 1986, the salaries of assistant superintendents and district superintendents shall be not more than [\$41,250] \$61,560 a year and the salaries of deputy district superintendents shall be not more than [\$38,500] \$55,404 a year. [Effective July 1, 1982, the salaries of assistant superintendents and district superintendents shall be not more than \$44,550 a year, and the salaries of deputy district superintendents shall be not more than \$41,580 a year.]"

SECTION 9. Section 312-2.1, Hawaii Revised Statutes, is amended to read as follows:

"§312-2.1 Appointment of state librarian; duties; salary. The state librarian shall be appointed by the board of education, without regard to chapters 76 and 77, shall serve at the pleasure of the board, shall be under the direction of the board, and shall be responsible for the operation, planning, programming, and budgeting of all community/school and public libraries within the State. Notwithstanding any other law to the contrary, the salary of the state librarian shall be set by the board of education. Effective [July 1, 1982,] January 1, 1986, the salary shall not exceed [\$44,550] \$55,404 a year."

SECTION 10. Section 314-10, Hawaii Revised Statutes, is amended to read as follows:

"§314-10 Executive director and staff. The board shall appoint an executive director subject to the approval of the governor who shall not be subject to chapters 76, 77, and 89. Effective [July 1, 1981,] January 1, 1986, the salary of the executive director shall be [\$35,750] \$55,404 a year. [Effective July 1, 1982, the salary of the executive director shall be \$38,610 a year.]"

SECTION 11. Section 349-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The head of this office shall be known as the director of the executive office on aging, hereinafter referred to as director. The director shall have professional training in the field of social work, education, public health, and other related fields; extensive direct experience in programs or services related to the elderly; and recent experience in a supervisory, consultative, or administrative position. The director shall be nominated and appointed by the governor without regard to chapters 76 [and], 77[.], and 89. Effective [July 1, 1981,] January 1, 1986, the salary of the director shall be [\$41,250 annually.

Effective July 1, 1982, the salary of the director shall be \$44,550 annually.] \$49,864 a year. The director shall be included in any benefit program generally applicable to the officers and employees of the State."

SECTION 12. Section 353-63, Hawaii Revised Statutes, is amended to read as follows:

"§353-63 Service of Hawaii paroling authority members compensation; expenses. The [chairman] chairperson of the Hawaii paroling authority shall serve on a full-time basis. The other two members shall serve on a part-time basis. Effective [July 1, 1981,] January 1, 1986, the annual salary of the [chairman] chairperson shall be [\$41,250.] \$55,404. The compensation of each of the part-time members shall be eighty per cent of the hourly wage paid the [chairman]. Effective July 1, 1982, the annual salary of the chairman shall be \$44,550.] chairperson. For each hour engaged in the official duties of the authority from [July 1, 1981 to June 30, 1982,] January 1, 1986, each member of the authority other than the [chairman] chairperson shall be paid an hourly wage at the percentage rate specified in this section based on the hourly wage paid the [chairman] chairperson effective [July 1, 1981. Effective July 1, 1982, each member other than the chairman shall be paid at the percentage rate specified in this section based on the hourly wage paid the chairman effective July 1, 1982, for each hour in which the member is engaged in official duties.] January 1, 1986. All paroling authority members shall receive their necessary expenses for travel and incidentals which shall be paid from appropriations provided the authority for such purposes, on vouchers approved by the director of social services."

SECTION 13. Section 356-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The authority shall employ, not subject to chapters 76 [and 77], 77, and 89 and section 26-35(4), an executive director. Effective [July 1, 1981,] January 1, 1986, the salary of the executive director shall be [\$44,000] \$61,560 a year. [Effective July 1, 1982, the salary of the executive director shall be \$47,520 a year.] The authority may employ, subject to chapters 76 and 77, technical experts and officers, agents, and employees, permanent and temporary, as required. When, in the determination of the authority, services to be performed are unique and essential to the execution of the functions of the authority, it may hire persons on a contractual basis not subject to chapters 76, 77, and 78; provided that no individual contract shall be for a period longer than two years per term. The authority may call upon the attorney general for such legal services as it may require or may employ its own counsel and legal staff. The authority may delegate to one or more of its agents or employees such powers or duties as it deems proper."

SECTION 14. Section 371-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is created a labor and industrial relations appeals board composed of three members nominated and, by and with the advice and consent of the senate, appointed by the governor for terms of ten years each, except that the terms of members first appointed shall be for six, eight, and ten years respectively as designated by the governor at the time of appointments. The governor shall designate the [chairman] chairperson of the board who shall be an attorney at law licensed to practice in all of the courts of this State. Each member shall hold office until his successor is appointed and qualified. Because

cumulative experience and continuity in office are essential to the proper handling of appeals under workers' compensation law and other labor laws, it is hereby declared to be in the public interest to continue board members in office as long as efficiency is demonstrated. The members shall devote full time to their duties as members of the board. Effective [July 1, 1981,] January 1, 1986, the salary of the [chairman] chairperson of the board shall be [~~\$46,750~~] \$61,560 a year, and the salary of each of the other members shall be [~~\$44,413~~] \$55,404 a year. [Effective July 1, 1982, the salary of the chairman shall be \$47,520 a year, and the salary of each of the other members shall be \$44,550 a year.]”

SECTION 15. Section 410-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The powers and duties of the commissioner shall include, but are not limited to:

- (1) Enforcing the provisions of this chapter and other laws relating to credit unions;
- (2) Conferring with the credit union review board on matters affecting credit unions incorporated under this chapter on a regular basis as shall be determined by the [chairman] chairperson and the commissioner; provided that the commissioner shall confer with the review board at least once every six months[.];
- (3) Make files available for inspection by the review board relating to decisions of the commissioner regarding credit unions[.];
- (4) Appointing a deputy not subject to chapters 76, 77, and 89 who shall receive a salary, effective [July 1, 1981,] January 1, 1986, of [~~\$35,750~~] \$49,864 a year [and, effective July 1, 1982, of \$38,610 a year]. The deputy shall possess all powers and perform all duties attached to the office of the commissioner of credit unions during a vacancy or during the absence or inability of the commissioner; and
- (5) Employing examiners and clerks pursuant to chapters 76 and 77 to assist the commissioner and the commissioner's deputy in the discharge of the duties of the office.”

SECTION 16. Section 487-4, Hawaii Revised Statutes, is amended to read as follows:

“**\$487-4 Salaries; benefits.** Effective [July 1, 1981,] January 1, 1986, the salary of the director of the office of consumer protection shall be [~~\$41,250~~] \$55,404 a year. [Effective July 1, 1982, the salary of the director shall be \$44,550 a year.] The director and attorney staff members shall be entitled to participate in any employee benefit plan.”

SECTION 17. Section 581-1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The director of the office shall be known as the director of the office of children and youth, hereinafter referred to as director. The director shall have training or experience, or both, in the field of social work, education, public health, or other related fields; direct experience in programs and services related to children and youth; and experience in a supervisory, consultative, or administrative position. The director shall be appointed by the governor without regard to chapters 76 [and 77.], 77, and 89. Effective [July 1, 1982,] January 1, 1986, the salary of the director shall be [~~\$44,550~~] \$49,864. The director shall be included in any benefit program generally applicable to the officers and employees of the State.”

SECTION 18. Section 802-11, Hawaii Revised Statutes, is amended to read as follows:

"§802-11 Appointment of state public defender. The state public defender shall be appointed by the defender council without regard to chapters 76, 77, and 89. His appointment shall be for a term of four years except as otherwise provided herein, and until his successor is appointed and qualified. He shall be qualified to practice law before the supreme court of this State. Effective [July 1, 1981,] January 1, 1986, the salary of the state public defender shall be [~~\$41,250~~] \$55,404 a year. [Effective July 1, 1982, the salary of the state public defender shall be \$44,550 a year.] The state public defender shall devote full time to the performance of his duties and shall not engage in the general practice of law."

SECTION 19. There is appropriated out of the general revenues of the State of Hawaii to Program Planning, Analysis, and Budgeting (BUF 101) in the operating cost category the sum of \$528,180 for fiscal year 1985-1986 and \$1,056,360 for fiscal year 1986-1987, or so much thereof as may be necessary to provide salary increases and retroactive salary payments for executive branch officers of the State whose salaries are increased under this part.

Special and federal funds shall be used to the maximum extent before state funds are utilized. Any unexpended or unencumbered balance of any appropriations made by this part as of the close of business on June 30, 1987, shall lapse into the general fund.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this part.

PART II

SECTION 20. Section 571-8.2, Hawaii Revised Statutes, is amended to read as follows:

"§571-8.2 Salary of district family judges. Effective [July 1, 1981,] January 1, 1986, the salary of each district family court judge of the various district family courts of the State shall be [~~\$44,000~~] \$59,500 a year. [Effective July 1, 1982, the salary of each district family court judge of the various district family courts of the State shall be \$47,520 a year.]

Whenever the chief justice appoints a district family court judge of any of the various district family courts of the State to serve temporarily as a circuit court judge of any of the various circuit courts of the State, the judge shall receive per diem compensation for the days on which actual service is rendered based on the monthly rate of compensation paid to a circuit court judge. For the purpose of determining per diem compensation in this section, a month shall be deemed to consist of twenty-one days."

SECTION 21. Section 601-3, Hawaii Revised Statutes, is amended to read as follows:

"§601-3 Administrative director. The chief justice, with the approval of the supreme court, shall appoint an administrative director of the courts to assist him in directing the administration of the judiciary. The administrative director shall be a resident of the State for a continuous period of three years prior to his appointment, and shall be appointed without regard to chapters 76 and 77 and shall serve at the pleasure of the chief justice. He shall hold no other office or employment. Effective [July 1, 1981,] January 1, 1986, the administrative director shall receive a salary of [~~\$46,750~~] \$68,400 a year. [Effective July 1, 1982, the administrative director shall receive a salary of \$50,490 a year.] He

shall, subject to the direction of the chief justice, perform the following functions:

- (1) Examine the administrative methods of the courts and make recommendations to the chief justice for their improvement;
- (2) Examine the state of the dockets of the courts, secure information as to their needs of assistance, if any, prepare statistical data and reports of the business of the courts and advise the chief justice to the end that proper action may be taken;
- (3) Examine the estimates of the courts for appropriations and present to the chief justice his recommendations concerning them;
- (4) Examine the statistical systems of the courts and make recommendations to the chief justice for a uniform system of judicial statistics;
- (5) Collect, analyze, and report to the chief justice statistical and other data concerning the business of the courts;
- (6) Assist the chief justice in the preparation of the budget, the six-year program and financial plan, the variance report and any other reports requested by the legislature;
- (7) Carry out all duties and responsibilities that are specified in title 7 as it pertains to employees of the judiciary; and
- (8) Attend to such other matters as may be assigned by the chief justice.

The administrative director shall, with the approval of the chief justice, appoint a deputy administrative director of the courts subject to chapter 76 but not subject to chapter 77 and such assistants as may be necessary. Such assistants shall be appointed subject to chapters 76 and 77. Effective [July 1, 1981,] January 1, 1986, the salary of the deputy administrative director shall be [~~\$44,000~~] \$61,560 a year. [Effective July 1, 1982, the salary of the deputy administrative director shall be \$47,520 a year.] The administrative director shall be provided with necessary office facilities.

The judges, clerks, officers, and employees of the courts shall comply with all requests of the administrative director for information and statistical data relating to the business of the courts and expenditure of public funds for their maintenance and operation."

SECTION 22. Section 602-2, Hawaii Revised Statutes, is amended to read as follows:

"§602-2 Salary, supreme court justices. Effective [July 1, 1981,] January 1, 1986, the salary of the chief justice of the supreme court shall be [~~\$52,250~~] \$80,000 a year and the salary of each associate justice of the supreme court shall be [~~\$49,500~~] \$78,500 a year. [Effective July 1, 1982, the salary of the chief justice of the supreme court shall be \$56,430 a year and the salary of each associate justice of the supreme court shall be \$53,460 a year.]"

SECTION 23. Section 602-52, Hawaii Revised Statutes, is amended to read as follows:

"§602-52 Salary. Effective [July 1, 1981,] January 1, 1986, the salary of the chief judge of the intermediate appellate court shall be [~~\$49,500~~] \$75,500 a year and the salary of each associate judge shall be [~~\$48,125~~] \$73,500 a year. [Effective July 1, 1982, the salary of the chief judge shall be \$53,460 a year and the salary of each associate judge shall be \$51,975 a year.]"

SECTION 24. Section 603-5, Hawaii Revised Statutes, is amended to read as follows:

"§603-5 Salary of circuit court judges. Effective [July 1, 1981,] January 1, 1986, the salary of each circuit court judge of the various circuit courts of the State shall be [\$46,750] \$69,500 a year. [Effective July 1, 1982, the salary of each circuit court judge of the various circuit courts of the State shall be \$50,490 a year.]"

SECTION 25. Section 604-2.5, Hawaii Revised Statutes, is amended to read as follows:

"§604-2.5 Salary of district judges. Effective [July 1, 1981,] January 1, 1986, the salary of each district court judge of the various district courts of the State shall be [\$44,000] \$59,500 a year. [Effective July 1, 1982, the salary of each district court judge of the various district courts of the State shall be \$47,520 a year.]

Whenever the chief justice appoints a district court judge of any of the various district courts of the State to serve temporarily as a circuit court judge of any of the various circuit courts of the State, the judge shall receive per diem compensation for the days on which actual service is rendered based on the monthly rate of compensation paid to a circuit court judge. For the purpose of determining per diem compensation in this section, a month shall be deemed to consist of twenty-one days."

SECTION 26. There is appropriated out of the general revenues of the State of Hawaii the sum of \$598,432, for fiscal year 1985-1986 and \$1,196,864 for fiscal year 1986-1987, or so much thereof as may be necessary to provide salary increases and retroactive salary payments for justices, judges, and judicial branch officers, whose salaries are increased under this part.

The sum appropriated shall be expended by the judiciary for the purposes of this part.

PART III

SECTION 27. Chapter 23, Hawaii Revised Statutes, is amended as follows:

1. Section 23-3 is amended to read:

"§23-3 Salary of the auditor and appropriations. The salary of the auditor shall be fixed by the legislature and shall not be diminished during the auditor's term of office. Effective [July 1, 1981,] January 1, 1986, the salary of the auditor shall be [\$46,750] \$68,400 a year. [Effective July 1, 1982, the salary of the auditor shall be \$50,490 a year.]

The funds for the support of the auditor's office shall be provided for in the act providing for the expenses of the legislature."

2. Section 23-8 is amended to read:

"§23-8 Assistance and staff. In the performance of his duties, the auditor may employ the services of one or more certified public accountants or accounting firms, and such other assistants and clerical workers as may be necessary, provided the cost thereof shall not exceed such sums as may be available out of the appropriation provided by law for the conduct of his office and provided further, that such accountants, firms, and assistants are entirely independent of the departments, offices, and agencies of the State and its political subdivisions whose affairs are subject to audit by the auditor. All employees shall be hired by the auditor subject to the approval of the president of the senate and the speaker of the house of representatives and shall serve at his pleasure; provided that in the establishment of the salary of each employee

the auditor shall consult with the department of personnel services and shall follow as closely as possible the recommendations of the department; and provided further that, effective [July 1, 1981,] January 1, 1986, the salary of the first assistant or first deputy shall be [\$44,000] \$61,560 a year [and, effective July 1, 1982, the salary of the first assistant or first deputy shall be \$47,520 a year]. The auditor and his full-time staff shall be entitled to participate in any employee benefit program privileges."

SECTION 28. Chapter 23G, Hawaii Revised Statutes, is amended as follows:

1. Section 23G-1 is amended to read:

"§23G-1 Legislative reference bureau; director, appointment, tenure, removal, compensation, vacancy. The office of the legislative reference bureau is established. The legislature, by a majority vote of each house in joint session, shall appoint a director for the bureau who shall serve for a period of six years and thereafter until a successor shall have been appointed. The legislature, by two-thirds vote of the members in joint session, may remove or suspend the director from office, but only for neglect of duty, misconduct, or disability.

If the director dies, resigns, becomes ineligible to serve, or is removed or suspended from office, the first assistant to the director shall become the acting director until a new director is appointed.

Effective [July 1, 1981,] January 1, 1986, the salary of the director shall be [\$46,750] \$68,400 a year. [Effective July 1, 1982, the salary of the director shall be \$50,490 a year.] The salary of the director shall not be diminished during his term of office, unless by general law applying to all salaried officers of the State."

2. Section 23G-2 is amended to read:

"§23G-2 Assistant; staff. The director shall appoint a first assistant and such other officers and employees as may be necessary to carry out the functions of the bureau. All employees, including the first assistant, shall be hired by the director and shall serve at his pleasure. In determining the salary of the employees of the bureau, the director shall consult with the department of personnel services; provided that, effective January 1, 1986, the salary of the first assistant shall be [\$44,000] \$61,560 a year [and, effective July 1, 1982, the salary of the first assistant shall be \$47,520 a year]. The director and his full-time staff shall be entitled to participate in any employee benefit program plan or privilege."

SECTION 29. Section 84-35, Hawaii Revised Statutes, is amended to read as follows:

"§84-35 Staff. The ethics commission may employ and at pleasure remove such persons, including an executive director, as it may deem necessary for the performance of its functions. Effective [July 1, 1981,] January 1, 1986, the salary of the executive director shall be [\$34,096] \$42,384 a year. [Effective July 1, 1982, the salary of the executive director shall be \$34,824 a year.] The commission shall fix the compensations of other employees within the amounts made available by appropriation therefor. The employees of the commission shall be exempt from chapters 76 and 77."

SECTION 30. Chapter 96, Hawaii Revised Statutes, is amended as follows:

1. Section 96-2 is amended to read:

“§96-2 Ombudsman; office established, appointment, tenure, removal, qualifications, salary, vacancy. The office of ombudsman is established. The legislature, by a majority vote of each house in joint session, shall appoint an ombudsman who shall serve for a period of six years and thereafter until a successor shall have been appointed. An ombudsman may be reappointed but may not serve for more than three terms. The legislature, by two-thirds vote of the members in joint session, may remove or suspend the ombudsman from office, but only for neglect of duty, misconduct, or disability.

No person may serve as ombudsman within two years of the last day on which he served as a member of the legislature, or while he is a candidate for or holds any other state office, or while he is engaged in any other occupation for reward or profit. Effective [July 1, 1981,] January 1, 1986, the salary of the ombudsman shall be [~~\$46,750~~] \$68,400 a year. [Effective July 1, 1982, the salary of the ombudsman shall be \$50,490 a year.] The salary of the ombudsman shall not be diminished during his term of office, unless by general law applying to all salaried officers of the State.

If the ombudsman dies, resigns, becomes ineligible to serve, or is removed or suspended from office, the first assistant to the ombudsman becomes the acting ombudsman until a new ombudsman is appointed for a full term.”

2. Section 96-3 is amended to read:

“§96-3 Assistance, staff, delegation, funding. The ombudsman shall appoint a first assistant and such other officers and employees as may be necessary to carry out this chapter. All employees, including the first assistant, shall be hired by the ombudsman and shall serve at his pleasure. In determining the salary of each such employee, the ombudsman shall consult with the department of personnel services and shall follow as closely as possible the recommendations of the department. Effective [July 1, 1981,] January 1, 1986, the first assistant's salary shall be [~~\$44,000~~] \$61,560 a year. [Effective July 1, 1982, the first assistant's salary shall be \$47,520 a year.] The ombudsman and his full-time staff shall be entitled to participate in any employee benefit plan.

The ombudsman may delegate to his appointees any of his duties except those specified in sections 96-12 and 96-13; provided that during the absence of the ombudsman from the island of Oahu, or his temporary inability to exercise and discharge the powers and duties of his office, such powers and duties as contained in sections 96-12 and 96-13 shall devolve upon the first assistant during such absence or inability.

The funds for the support of the office of the ombudsman shall be provided for in the act providing for the expenses of the legislature.”

SECTION 31. There is appropriated out of the general revenues of the State of Hawaii to the legislative agencies indicated below the following sums, or so much thereof as may be necessary for the fiscal year 1986-1987, to provide salary increases and retroactive salary payments for the legislative auditor and the auditor's assistants, the director of the legislative reference bureau and the director's assistants, executive director of the ethics commission, and the ombudsman and the ombudsman's first assistant:

	FY 1986-1987
Office of the Legislative Auditor	\$50,517
Ethics Commission	\$11,340
Office of the Legislative Reference Bureau	\$62,343
Ombudsman	\$47,925

The sum appropriated shall be expended by the auditor, office of the legislative reference bureau, or office of the ombudsman, as applicable, for the purpose of this part.

PART IV

SECTION 32. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 33. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 34. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

ACT 129

S.B. NO. 1960-86

A Bill for an Act Relating to the Redevelopment of the Aloha Tower Complex.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 121, Session Laws of Hawaii 1985, is amended by amending sections 1 and 2 to read as follows:

"SECTION 1. There is hereby appropriated out of revenue bond funds the sum of [\$33,260,000,] \$200,000,000, or so much thereof as may be necessary, for fiscal years [1985-1986 and] 1986-1987[, and 1987-88, for the [public participation portion] purpose of financing a project or projects under chapter 206J, Hawaii Revised Statutes, in furtherance of the redevelopment of the Aloha Tower Complex.

SECTION 2. The Aloha Tower Development Corporation, with the approval of the Governor, is authorized to issue revenue bonds for the purposes of this Act; provided that the sum total of the bonds so issued shall not exceed [\$33,260,000,] \$200,000,000; and provided that no bonds shall be issued under this Act and no demolition or site development shall proceed until development proposals have been incorporated into firm contractual commitments."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

ACT 130

H.B. NO. 692

A Bill for an Act Relating to Terms of Boards and Commissions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 9-2, Hawaii Revised Statutes, is amended to read as follows:

"§9-2 Establishment of foundation. There is hereby created a state foundation on culture and the arts composed of nine members to be appointed and removed by the governor pursuant to section 26-34. The term of each member shall be for four years, commencing on [January 1] July 1 and expiring on [December 31;] June 30; provided that of the nine members appointed for terms commencing January 1, 1978, three members shall serve for four years, three members shall serve for three years,¹ and the remaining three members shall serve for two years. The governor shall appoint the chairman of the foundation from among the members thereof. The members of the foundation shall serve without compensation, but they shall be reimbursed for travel and other necessary expenses in the performance of their official duties.

The foundation shall be placed within the department of accounting and general services for administrative purposes."

SECTION 2. Section 307-2, Hawaii Revised Statutes, is amended to read as follows:

"§307-2 Board of directors; composition. The affairs of the research corporation shall be under the general management and control of the board of directors, hereinafter referred to as the "board". The board shall consist of nine members. The president and director of research of the University of Hawaii, and the director of planning and economic development of the State shall serve as ex officio voting members. The remaining six members shall be appointed by the governor pursuant to section 26-34. All the members appointed by the governor, other than the ex officio members, shall serve for a term of¹ those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year, each term commencing on [January 1] July 1 and expiring on [December 31;]¹ June 30. All members of the board shall serve without pay, but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities.

The members of the board shall elect the chairman of the board.

If for any reason whatsoever,¹ any of the ex officio positions are¹ eliminated or changed in any way, the officer performing the basic functions of such ex officio position shall qualify to serve as the ex officio voting member on the board."

SECTION 3. Section 463-2, Hawaii Revised Statutes, is amended to read as follows:

"§463-2 Board of private detectives and guards; appointment; qualifications; term. Appointment and removal. There shall be a board of detectives and guards consisting of seven members, six of whom shall be nominated, and by and with the advice and consent of the senate, appointed by the governor. The terms of such members shall be for four years. Each term shall commence on [January 1] July 1 and expire on [December 31.] June 30. No person shall be appointed consecutively to more than two terms, provided that such membership shall not exceed eight consecutive years. The director of commerce and consumer affairs shall be an ex officio nonvoting seventh member of the board and may designate a representative to sit in his stead.

Of the six appointed members, two shall be chiefs of police of any of the four counties, two shall be private citizens not engaged in any of the licensed practices, and two shall be persons actively engaged in any of the licensed practices; provided that one person shall be a licensed private detective and one person shall be a licensed guard.

The board shall examine applicants for private detective or guard licenses, grant licenses, and revoke or suspend licenses of licensees who violate this chapter."

SECTION 4. Section 467-3, Hawaii Revised Statutes, is amended to read as follows:

"§467-3 Commission, appointments, qualifications, tenure. There shall be appointed in the manner provided by section 26-34, a commission to be known as the real estate commission, and to consist of nine members, at least four of whom shall be licensed real estate brokers who have been engaged in business as licensed real estate brokers or salesmen for three years immediately preceding their appointments, each of whom shall be a citizen of the United States and shall have resided in the State for at least three years preceding [his] appointment, and one of whom shall be designated by the appointing power as chairman. Four members shall be residents of the city and county of Honolulu, one shall be a resident of the county of Hawaii, one shall be a resident of the county of Maui, and one shall be a resident of the county of Kauai and two members shall be public members.

Appointments shall be made for a term of four years, commencing from the date of expiration of the last preceding term and shall be made to expire on [December 31.] June 30. Appointments shall be made so that at least one appointment shall be required each year.

Any vacancy shall be filled by appointment for the unexpired term. The members of the commission shall serve without pay. All expenses shall be paid out of the special fund provided in section 467-11."

SECTION 5. Section 468E-6, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) Members shall serve for a term of three years, provided, that of the initial appointees, two shall serve for terms of one year; two shall serve for terms of two years; and three shall serve for terms of three years. Terms shall begin on the first day of the [calendar] fiscal year and end on the last day of the [calendar] fiscal year, except for the first appointed members, who shall serve through the last calendar year¹ of the year in which they are appointed before commencing the terms for which they are appointed as prescribed by this section.

(d) The board shall meet during the first month of each [calendar] fiscal year to select a chairman and for other appropriate purposes. At least one additional meeting shall be held before the end of each [calendar] fiscal year. Further meetings may be convened at the call of the chairman or the written request of any two board members. The board shall conduct its meetings and keep records of its proceedings in accordance with the provisions of chapter 92."

SECTION 6. Notwithstanding any other provision of this Act, the terms of all members appointed to the boards and commissions affected by this Act, on or before the effective date of this Act, shall be extended from the ending date specified on the members' commissions through the next occurring June 30.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

Note

1. So in original.

ACT 131

H.B. NO. 1316

A Bill for an Act Relating to Refunds and Exchanges.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 481B-5, Hawaii Revised Statutes, is amended to read as follows:

“[] §481B-5[] Refunds[.] and exchanges. (a) Any person engaged in the business of offering goods for sale at retail shall elect one of the following return policies:

- (1) Accept the return of goods for refund;
- (2) Accept the return of goods for refund or exchange; provided that the refund or exchange shall be at the option of the purchaser;
- (3) Accept the return of goods for exchange only; or
- (4) Not accept the return of goods for refund or exchange.

[(a)] (b) Any person engaged in the business of offering goods for sale at retail who accepts the return of goods for refund, which goods were paid for at the time of purchase by cash, check, credit card, or by charging the purchase price to a credit account administered by the person making the sale, shall refund the full amount of the payment, including any ancillary charges or taxes incident to the purchase returned, in the following manner:

- (1) If payment was made in cash, in cash at the time of the return of goods;
- (2) If payment was made by check, in cash at the time of the return of goods; provided that if the check has not cleared the bank on which it is drawn, the refund may be delayed until the check has cleared;
- (3) If payment was made by credit card, by credit to the purchaser's credit card account; or
- (4) If payment was made by charging a credit account administered by the person making the sale, by credit to the purchaser's credit account;

provided that before making the refund, the person accepting the return of goods may require proof of purchase at [his] the person's place of business by sales slips, receipts, or other evidence of purchase of the goods returned.

(c) Any person engaged in the business of offering goods for sale at retail who accepts the return of goods for exchange shall do so in the following manner:

- (1) The person shall credit the purchaser in the amount of the full purchase price of the returned goods, including any ancillary charges or taxes incident to the purchase.
- (2) If the purchaser does not select goods in exchange of the returned goods within thirty days of the return, the person shall make a full refund to the purchaser in cash or in accordance with subsection (b).
- (3) If the purchaser selects goods in exchange of the returned goods and the purchase price of the goods received in exchange is less than the full purchase price of the returned goods, the person shall make a refund in the amount of the difference between the prices in cash or in accordance with subsection (b).
- (4) Before accepting the return of goods for exchange, the person may require proof of purchase at the person's place of business by sales slip, receipts, or other evidence of purchase of the returned goods.

[(b)] (d) Any person engaged in the business of offering goods for sale at retail who accepts the return of goods but limits the period during which goods may be returned to less than sixty days after the date of purchase or delivery shall post conspicuous signs in [his] the person's place of business bearing the words "No refunds or exchanges (either or both, as appropriate) after (insert number of days) days from date of (insert "purchase" or "delivery", as appropriate)", or words or phrases of similar import, to inform customers of the limitation of the period during which the return of goods will be accepted.

[(c)] (e) Any person engaged in the business of offering goods for sale at retail who excludes a certain category or type of goods from the refund or exchange policy shall post conspicuous signs in [his] the person's place of business identifying that type of goods, bearing the words "No refunds or exchanges (either or both, as appropriate) on (insert type description) goods[.]"], or words or phrases of similar import, to advise customers of the exclusion policy.

(f) Any person engaged in the business of offering goods for sale at retail who accepts the return of goods for exchange only, shall post conspicuous signs in the person's place of business bearing the words "Exchanges only", or words or phrases of similar import, to inform customers that only exchanges will be given.

(g) Any person engaged in the business of offering goods for sale at retail who fails to post a conspicuous sign as required by this section shall accept the return of goods from purchasers and make refunds in accordance with subsection (b).

[(d)] (h) Any person engaged in the business of offering goods for sale at retail who does not accept the return of goods shall post conspicuous signs in [his] the person's place of business bearing the words "All sales final", or "No [refunds,] refunds or exchanges", or words or phrases of similar import, to inform customers that no return of goods will be accepted.

[(e)] (i) Signs required in subsections [(b), (c) and (d)] (c), (d), (e), (f), and (h) shall be posted in the selling areas of the business in locations reasonably calculated to bring the signs to the attention of customers.

[(f)] (j) Any violation of the foregoing subsections shall constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce under section 480-2.

[(g)] (k) This section shall not apply to goods which are damaged after sale, of a type which are unsuitable for resale after any use, or which have been retained by the purchaser in excess of sixty days after purchase."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved May 12, 1986.)

ACT 132

H.B. NO. 1322

A Bill for an Act Relating to Worker's Compensation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§386- Out of state employers. Any employer whose principal place of business is outside the State shall, prior to the commencement of employment within the State, register with the director the employer’s name, approximate total wages to be paid, and the dates of employment activity within the State. The employer shall file with the director, in the form prescribed by the director, a notice of insurance together with a copy of the contract or policy of insurance which has been countersigned by a person licensed under chapter 431.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 133

H.B. NO. 1488

A Bill for an Act Relating to Restitution.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-31.4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Informal adjustment under this section may include, among other suitable methods, programs, and procedures, the following:

- (1) Participation in restitution projects to obtain appropriate victim satisfaction;
- (2) Participation in community service projects so as to establish the child’s self value in the community;
- (3) Participation in community-based programs which work with the child and family to maintain and strengthen the family unit so that the child may be retained in the child’s own home;
- (4) Submission to neighborhood courts or panels upon procedures to be established by the court. As used in this paragraph “neighborhood courts or panels” are community organizations designed to settle minor disputes between parties on a voluntary basis using mediation or nonbinding arbitration;
- (5) Participation in programs to support, counsel, or provide work and recreational opportunities to help prevent delinquency;
- (6) Participation in educational programs or supportive services designed to help delinquents and to encourage other youths to remain in elementary and secondary schools or in alternative learning situations;
- (7) Participation in youth-initiated programs and outreach programs designed to assist youth and families;
- (8) Appropriate physical and medical examinations, vocational and aptitude testing, examinations for learning disabilities or emotional dysfunctions, and suitable counseling and therapy; [or]
- (9) Placement with non-secure or secure shelter facilities[.]; or
- (10) Restitution providing for monetary payment by the parents of the child.”

SECTION 2. Section 571-48, Hawaii Revised Statutes, is amended to read as follows:

“§571-48 Decree, if informal adjustment or diversion to a private or community agency or program has not been effected. When a minor is found by the court to come within section 571-11, the court shall so decree and in its decree shall make a finding of the facts upon which the court exercises its jurisdiction over the minor. Upon [such] the decree the court [shall], by order duly entered, shall proceed as follows:

- (1) As to a child adjudicated under section 571-11(1):
 - (A) The court may place the child on probation [(i) in]:
 - (i) In the child's own home [or (ii) in]; or
 - (ii) In the custody of a suitable person or facility elsewhere, upon conditions determined by the court.

When conditions of probation include incarceration in a youth correctional facility, [such] the incarceration shall be for a term not to exceed one year, after which time the person shall be allowed to reside in the community subject to additional conditions as may be imposed by the court.
 - (B) The court may vest legal custody of the child, after prior consultation with the agency or institution, in a Hawaii youth correctional facility, in a local public agency or institution, or in any private institution or agency authorized by the court to care for children; or place the child in a private home. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state's department of social services or other equivalent department.
 - (C) The court may fine the child for a violation which would be theft in the third degree by shoplifting if committed by an adult. The court may require the child to perform public services in lieu of the fine.
- (2) As to a child adjudicated under section 571-11(2):
 - (A) The court may place the child under protective supervision, as hereinabove defined, in the child's own home, or in the custody of a suitable person or agency elsewhere, upon conditions determined by the court.
 - (B) The court may vest legal custody of the child, after prior consultation with the agency or institution in a local governmental agency or institution licensed or approved by the State to care for children, with the exception of an institution primarily for the care and treatment of children committed under section 571-11(1) or in any private agency or institution authorized by the court to care for children. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state's department of social services or other equivalent department; provided that the child may not be committed to a public or private institution operated solely for the treatment of law violators.
- (3) An order vesting legal custody of a minor in an individual, agency, or institution under section 571-11(2) shall be for an indeterminate period but shall not remain in force or effect beyond three years

from the date entered, except that the individual, institution, or agency may file with the court a petition for renewal of the order and the court may renew the order if it finds such renewal necessary to safeguard the welfare of the child or the public interest. The court [may], after notice to the parties, may conduct a hearing on the petition. Renewal may be periodic during minority, but no order shall have any force or effect beyond the period authorized by section 571-13. An agency granted legal custody shall be subject to prior approval of the court in any case in which the child is to reside without the territorial jurisdiction of the court and may be subject to prior approval in other cases. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the court.

- (4) Whenever the court commits a child to the care of the director of social services or vests legal custody of a child in an institution or agency it shall transmit with the order copies of the clinical reports, social study, and other information pertinent to the care and treatment of the child, and the institution or agency shall give to the court any information concerning the child that the court may at any time require. An institution or agency receiving a child under this paragraph shall inform the court whenever the status of the child is affected through temporary or permanent release, discharge, or transfer to other custody. An institution to which a child is committed under section 571-11(1) or (2) shall not transfer custody of the child to an institution for the correction of adult offenders, except as authorized [herein] in this chapter and under chapter 352.
- (5) The court may order, for any child within its jurisdiction, whatever care or treatment is authorized by law.
- (6) In placing a child under the guardianship or custody of an individual or of a private agency or private institution, the court shall give primary consideration to the welfare of the child.
- (7) In support of any order or decree under section 571-11(1) or (2), the court may require the parents or other persons having the custody of the child, or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter and who are parties to the proceeding, to do or to omit doing any acts required or forbidden by law, when the judge deems this requirement necessary for the welfare of the child. If such persons fail to comply with the requirement, the court may proceed against them for contempt of court.
- (8) In support of any order or decree for custody or support, the court may make an order of protection setting forth reasonable conditions of behavior to be observed for a specified time, binding upon both parents or either of them. This order may require either parent to stay away from the home or from the other parent or children, may permit the other to visit the children at stated periods, or may require a parent to abstain from offensive conduct against the children or each other.
- (9) The court may dismiss the petition or otherwise terminate its jurisdiction at any time.

- (10) In any other case of which the court has jurisdiction, the court may make any order or judgment authorized by law.
- (11) The court may order any person adjudicated pursuant to section 571-11(1) to make restitution of money or services to any victim who suffers loss as a result of the child's action, or to render community service.
- (12) The court may order any person adjudicated pursuant to section 571-11(2) to participate in community service.
- (13) The court may order the parents of an adjudicated minor to make restitution of money or services to any victim, person, or party who has incurred a loss or damages as a result of the child's action."

SECTION 3. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

ACT 134

H.B. NO. 1869-86

A Bill for an Act Relating to Alarm Businesses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER ALARM BUSINESSES

§ -1 **Definitions.** Whenever used in this chapter, unless the context otherwise requires:

"Alarm business" means any individual, corporation, or other business entity that engages in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system in or on any building, place, or premises, except motor vehicles.

"Alarm system" means any device that is designed for the detection of an unauthorized entry into any building, place, or premises, except motor vehicles, or for alerting others to the commission of an unlawful act, or both, and that emits a sound or transmits a signal or message when activated.

"Audible alarm system" means any alarm system that emits a sound when activated.

"Automatic telephone dialer" means any alarm system that, when activated, dials a programmed telephone number and, when the telephone is answered, plays a recorded message informing the listener of an unauthorized entry or unlawful act.

"False alarm" means any alarm activation that is communicated to the police but that is not in response to an actual or threatened criminal act. False alarms include alarm activations caused by negligence, by improperly installed or maintained equipment, and by efforts to summon the police for a purpose other than that for which the alarm is designed. False alarms shall not include

alarm activations for which the cause cannot be determined, or is in reasonable doubt, or is beyond the control of the alarm user or alarm business.

"False alarm rate" means the total number of false alarms received by the police relative to the total number of alarm systems in operation.

§ -2 Bond. (a) Except as provided in subsection (e), each alarm business shall keep in force a surety bond in the sum of \$5,000 during its first five years of operation. The bond shall be in effect from the date that the alarm business begins selling its products or services and shall be continuously maintained for a period of five years from that date.

(b) The bond shall provide for payment, up to the limit of the bond, to any person who is injured or aggrieved or who has sustained loss or damage by the alarm business' violation of any provision of this chapter or any consumer protection statute, or the business' failure to faithfully, promptly, and truly refund all fees which were illegally or incorrectly obtained from its customers.

(c) The bond shall give the injured or aggrieved party a direct and independent action on the bond for a period of one year from the date the loss or damage occurred.

(d) An alarm business that has completed five or more continuous years of operation on the date this Act takes effect shall not be required to maintain a bond. An alarm business that has completed less than five continuous years of operation on the date this Act takes effect shall maintain the bond for the remainder of its first five years of operation.

(e) An alarm business shall not be required to maintain a bond if it is engaged only in selling alarm systems and does not provide any of the other services listed in the definition of "alarm business" in section -1.

§ -3 Records and reports. Each alarm business that maintains, services, or monitors alarm systems shall keep accurate and up-to-date business records as may be required for at least two years. The records shall include a log of all alarm activations, the date and time of each activation, the reason (insofar as reason can be determined) for each activation, and monthly counts of the number of activations at each alarm user site that are reported to the police.

§ -4 False alarms; reporting. Alarm businesses that maintain, service, or monitor alarm systems shall, upon request by the police, share with them the data about false alarms and alarm systems in operation needed to determine the monthly false alarm rate for each alarm business. Data obtained from each alarm business shall be used by the police only for statistical purposes and shall not be released to others. Alarm businesses and the police shall cooperate to reduce to a minimum the number of false alarms reported to the police.

§ -5 Maintenance. On or near each alarm system shall be posted the name, address, and telephone number of the alarm business that is maintaining, servicing, or monitoring the system. An alarm system that is not being maintained, serviced, or monitored by an alarm business shall bear the name, address, and telephone number of a person or persons who may be contacted to service or disconnect the system in the event that it malfunctions.

§ -6 Audible alarm systems. Every audible alarm system shall have a device to automatically terminate the audible signal within fifteen minutes of activation. No audible alarm system, whether in use prior to or after the effective date of this chapter, shall be used, sold, or leased unless the system complies with this section.

§ -7 **Automatic telephone dialers.** Automatic telephone dialers shall not be programmed for a municipal emergency number such as 911 or the telephone number of any police facility. No automatic telephone dialer, whether in use prior to or after the effective date of this chapter, shall be used, sold, or leased unless the system complies with this section.

§ -8 **Activation.** No alarm system shall be activated intentionally except: (1) to report an unauthorized intrusion or the commission of an unlawful act; or (2) to test an installed system with the prior knowledge and consent of the police; or (3) to permit an alarm business to demonstrate a system to a prospective buyer or user.

§ -9 **Restitution.** Any person who engages in an unlawful act or practice that violates any provision of this chapter may be ordered by a court of proper jurisdiction to make restitution to all individual consumers injured by the act or practice.

§ -10 **Penalty.** Any person who engages in an unlawful act or practice that violates any provision of this chapter shall be fined not less than \$500 or more than \$2,500 for each unlawful act or practice."

SECTION 2. This Act shall take effect one hundred eighty days after its approval.

(Approved May 12, 1986.)

ACT 135

H.B. NO. 1907-86

A Bill for an Act Relating to Boxing Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 **Repeal dates.** [[](a)[]] The following chapters are hereby repealed effective December 31, 1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- [(3)] Chapter 440 (Boxing Commission)
- (4) [(3)] Chapter 460J (Pest Control Board)
- [(5)] [(4)] Chapter 438 (Board of Barbers)
- [(6)] [(5)] Chapter 439 (Board of Cosmetology)

[[](b)[]] The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)
- (7) Chapter 455 (Board of Examiners in Naturopathy)

[[](c)[]] The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)

- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)
- (7) Chapter 442 (Board of Chiropractic Examiners)
- (8) Chapter 448 (Board of Dental Examiners)
- (9) Chapter 436E (Board of Acupuncture)

[[[d]]] The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)

[[[e]]] The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 462A (Pilotage)

[[[f]]] The following [[]chapters are[]] hereby repealed effective December 31, 1991:

- [[[1]]] Chapter 448H (Elevator Mechanics Licensing Board)
- [[[2]]] Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- [[[3]]] Chapter 457B (Board of Examiners of Nursing Home Administrators)
- [[[4]]] Chapter 460 (Board of Osteopathic Examiners)
- [[[5]]] Chapter 461 (Board of Pharmacy)
- [[[6]]] Chapter 461J (Board of Physical Therapy)
- [[[7]]] Chapter 463E (Podiatry)[.]

(g) The following chapter is hereby repealed effective December 31, 1992:

- (1) Chapter 440 (Boxing Commission)."

SECTION 2. Chapter 440, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§440- Revocation; suspension; fine. (a) The commission shall have the power to revoke or suspend the license of any person, partnership, or corporation licensed under any of the classifications designated in this chapter, or fine the licensee, or both, for any of the following causes:

- (1) Violation of any provision of this chapter or the rules adopted pursuant thereto or any other law, regulation, or rule which applies to those persons licensed under this chapter;
- (2) Manifest incapacity, professional misconduct, or unethical conduct;
- (3) Making any false representations or promises through advertising or other dissemination of information;
- (4) Any fraudulent, dishonest, or deceitful act in connection with the licensing of any person, partnership, or corporation under this chapter or in connection with any boxing match;
- (5) Making any false or misleading statement in any application or document submitted or required to be filed in this chapter;
- (6) Revocation or suspension of a license or other disciplinary action against the licensee by another state or boxing commission;

- (7) Failure to report any disciplinary action, including medical and mandatory suspensions, or revocation or suspension of a license in another jurisdiction within fifteen days preceding any boxing match in which the licensee participates.

(b) The manager and second may be held responsible for all violations of this chapter by a boxer whom they manage, second, train, or serve as an agent for and may be subject to license revocation or suspension, or a fine, or any combination thereof, irrespective of whether any disciplinary action is taken against the boxer.

(c) Any person, partnership, or corporation in violation of this chapter shall be fined not more than \$1,000 for each violation.

(d) In addition to the penalties provided in this chapter, any person, partnership, or corporation found in violation of any of the above may be prohibited from engaging in any boxing activities in the State for a period in conformity with that set forth in section 92-17."

SECTION 3. Chapter 440, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§440- Cumulative penalties. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 4. Section 440-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

" "Boxing" means a contest in which the act of attack and defense is practiced with gloved fists by two contestants."

SECTION 5. Chapter 440, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§440- Powers and duties of the board. In addition to the powers and duties enumerated elsewhere in this chapter, the commission shall adopt rules pursuant to chapter 91 to provide for the following:

- (1) A trust/escrow account system to ensure all financial obligations are met by a promoter before a boxing contest. This system shall supersede all other financial obligatory requirements imposed on promoters by this chapter;
- (2) A public record accounting for the distribution of all tickets provided to the commission by a promoter and anything else of value which is provided to the commission;
- (3) An annual clinic or seminar on health and medical safety for boxers;
- (4) A mandatory neurological examination for any boxer who is knocked out in a boxing contest, and an eye examination by a licensed ophthalmologist as part of a boxer's annual medical examination;
- (5) An annual review of the commission's rules and powers to insure that all rules and powers exercised are within the authority of the commission and pursuant to chapter 91."

SECTION 6. Section 440-9, Hawaii Revised Statutes, is amended to read as follows:

"§440-9 Jurisdiction of commission. (a) The [boxing] commission is vested with the sole jurisdiction, direction, management, and control over all

professional and amateur boxing, to be conducted, held, or given within the State. No professional or amateur boxing contest shall be conducted, held, or given within the State except in accordance with this chapter and the rules adopted by the commission pursuant thereto.

(b) [The] No boxing contest shall take place unless the commission has approved all proposed bouts. In addition, the commission shall not allow any professional boxing contest unless:

- (1) [the] The contestants use gloves not less than [five] six ounces in weight [and];
- (2) The contest [does not consist] consists of not more than fifteen rounds of a duration of not more than three minutes each with an interval of one minute between each round and the succeeding round[, and unless each];
- (3) Each contestant is at least eighteen years of age; and
- (4) [one] One hour prior to the contest each contestant is examined by a licensed physician who shall certify in writing to the referee of the contest that the contestant is physically fit to engage therein."

SECTION 7. Section 440-10, Hawaii Revised Statutes, is amended to read as follows:

"§440-10 Licenses, promoters. (a) Any individual, partnership, club, association, organization, or corporation may make application to the [boxing] commission for a license to conduct, hold, and give professional boxing contests. The application shall be in writing, addressed to the commission, and duly verified by the applicant, or if the applicant is a club, association, organization, or corporation, by a duly authorized officer thereof, and shall include the following:

- (1) Evidence of financial integrity for an individual applicant, for each partner of a partnership or joint venture, or for each corporate entity or association to include a:
 - (A) Current credit report covering a five-year period immediately preceding the date of application;
 - (B) Current financial statement certified by a registered certified public accountant or a registered public accountant;
 - (C) State tax clearance from the state department of taxation;
- (2) For corporations organized under the laws of the State [of Hawaii], a copy of the affidavit of officers on file with the department of commerce and consumer affairs, or certificates of registration for foreign corporations and partnerships;
- (3) Proof that the applicant has contracted for [major] medical insurance coverage for all boxers on the applicant's cards.

(b) The application shall contain a recital of the facts as may be specified by the commission in order for it to determine whether or not the applicant possesses the necessary physical, mental, moral, and financial qualifications to entitle the applicant to a license.

(c) The commission shall not issue any license to conduct, hold, or give boxing contests unless it is satisfied that the applicant has complied with the conditions of this chapter, possesses the necessary qualifications for a license, and is the real party in interest, and intends to conduct, hold, or give the contests or matches itself. A license may be revoked at any time if the commission finds after a hearing that the licensee is not the real party in interest or does not comply with the conditions of this chapter. Every license shall be subject to this chapter and the rules as the commission may prescribe."

SECTION 8. Section 440-11, Hawaii Revised Statutes, is amended to read as follows:

“§440-11 License fee; bond[.]; requirements to maintain license. (a) The application for a license to promote professional boxing contests or amateur boxing contests shall be accompanied by a fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91.

(b) Before any license is granted, the applicant shall file and maintain with the [boxing] commission proof of medical insurance for boxers as provided in section 440-10(a)(3) and a bond in the sum of \$5,000 with good and sufficient sureties conditioned for the faithful performance by the applicant of this chapter. In case of default in the performance, the bond shall be forfeited and the full amount thereof, or any less amount as the commission may determine, shall be recovered by the attorney general in the name of the State and the amount so recovered shall be paid to any aggrieved party for monetary damages sustained as a result of the applicant’s default in performance, as determined by the commission, with the remainder paid into the state treasury.

(c) Failure, refusal, or neglect of any licensed promoter to maintain in full force and effect the applicable medical insurance or the applicable bond covered in this section shall cause the automatic suspension of the promoter’s license as of the date of expiration or cancellation of the medical insurance or bond. A licensee may, within fifteen days after receipt of the notification of the license suspension, request an administrative hearing to review the suspension pursuant to chapter 91.

The commission shall not reinstate the affected license until satisfactory proof of medical insurance or bond coverage, as appropriate, is submitted to the commission. Failure to effect a reinstatement of a suspended license within sixty days of the suspension shall cause the license to be terminated.

The commission may assess a fee not to exceed \$500 as a condition for the reinstatement of a license terminated pursuant to this section.”

SECTION 9. Section 440-12, Hawaii Revised Statutes, is amended to read as follows:

“§440-12 Licenses, participants. Any individual, partnership, or corporation may make application to the [boxing] commission for a license to act as a physician, referee, judge, matchmaker, manager, timekeeper, second, [announcer,] or professional boxer to participate, either directly or indirectly, in any contest. The application shall be in writing, addressed to the commission, and duly verified by the applicant or, if the applicant is a corporation, by a duly authorized officer thereof. The application shall contain a recital of facts as may be specified by the commission in order for it to determine whether or not the applicant possesses the necessary physical, mental, and moral qualifications to entitle the applicant to a license.

In addition, the applicant for a referee, judge, manager, or second license shall take and pass a written examination as provided by the commission. The commission may exempt an applicant for a manager or second license from taking the examination, if the applicant holds a valid manager or second license in another jurisdiction with comparable boxing regulations.

Any license to act as a physician, referee, judge, matchmaker, manager, timekeeper, second, [announcer,] or professional boxer may be suspended or revoked by the commission upon cause as it deems sufficient after due hearing.”

SECTION 10. Section 440-13, Hawaii Revised Statutes, is amended to read as follows:

"§440-13 License fees. License fees shall be paid annually to the State by every applicant to whom a license is issued to participate in the conduct of professional boxing in any of the capacities set forth in this section: physician, referee, judge, matchmaker, manager, timekeeper, second, [announcer,] and professional boxer. The charge for a duplicate of a license and all fees required by this chapter shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.

The director of commerce and consumer affairs may establish a schedule of license fees for participation in amateur boxing contests, and may waive payment of license fees for amateur boxing contests."

SECTION 11. Section 440-16, Hawaii Revised Statutes, is amended to read as follows:

"§440-16 Failure to report receipts. Whenever any person, club, corporation, organization, or association holding a license to conduct, hold, or give boxing contests fails to make a report of any boxing contest at the time and in the manner herein prescribed, or whenever the report is unsatisfactory to the [boxing] commission, the secretary, at the licensee's expense, may examine, or cause to be examined, the books and records of the person, club, corporation, organization, or association."

SECTION 12. Section 440-19, Hawaii Revised Statutes, is amended to read as follows:

"§440-19 Referees; duties. At each boxing contest there shall be in attendance a duly licensed referee designated by the [boxing] commission, who shall direct and control the [same.] contest. Before starting the boxing contest the referee shall ascertain from each contestant the name of the contestant's chief second, and shall hold the chief second responsible for the conduct of the assistant seconds during the progress of the contest.

The referee may recommend and the commission may in its discretion declare forfeited any prize, purse, or remuneration or any part thereof, to which the contestants or one of the contestants may be entitled, or any part of the gate receipts for which the contestants are competing, if in its judgment the contestants or one of the contestants are not honestly competing.

Every referee shall warn competing boxers of the referee's power to recommend the forfeiture of purse or purses, should there be any apparent cause for the warning.

In any case where the referee decides that the contestants are not honestly competing and that under the law the contestants' purses or the purse of either contestant should be forfeited, the bout shall be stopped before the end of the last round, and no decision shall be given. A contestant earns nothing and shall not be paid for a contest in which there is stalling, faking, [or] dishonesty, or collusion. The commission may, independently of the referee or the referee's decision, determine the merits of any contest, and take whatever action it considers proper. In any case the secretary or commissioner may order the purse of the offender held up for investigation and action.

The referee shall stop the contest when either of the contestants shows a marked superiority or is apparently outclassed. The referee, at the termination of each boxing contest, shall render a decision."

SECTION 13. Section 440-31, Hawaii Revised Statutes, is amended to read as follows:

“§440-31 Persons barred as amateur contestants. No person shall appear as a contestant in amateur boxing contests who prior thereto has received any compensation or monetary reward in any form for displaying, exercising, or giving any example of the person’s boxing skill [in or knowledge of athletic exercises,] or for rendering services [of any kind] to any athletic organization or to any person or persons as a boxing trainer, coach, instructor, or otherwise, or who has been employed in any manner professionally by reason of the person’s [athletic] boxing skill or knowledge.”

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 15. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 136

H.B. NO. 1913-86

A Bill for an Act Relating to the Legislative Auditor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-5, Hawaii Revised Statutes, is amended to read as follows:

“§26H-5 Evaluation; report. (a) The legislative auditor shall evaluate each board, commission, and regulatory program created under a chapter repealed by section 26H-4 and shall submit an evaluation report to the legislature prior to the convening of the regular session of the year of the repeal date; provided that the legislative auditor shall evaluate each board, commission, and regulatory program at least once every ten years. The evaluation shall assess whether the regulatory program established by the chapter complies with the policies established by section 26H-2 and whether the public interest requires that the chapter be reenacted, modified, or permitted to expire.

(b) If the auditor finds that the chapter should be modified, the auditor shall incorporate in the auditor’s report, drafts of recommended legislation to be considered for enactment and which, if enacted, would improve the policies, procedures, and practices of the regulatory program evaluated. The auditor may request the assistance of the legislative reference bureau in drafting such recommended legislation. Any other law to the contrary notwithstanding, the auditor may release copies of preliminary reports to the legislative reference bureau if the auditor requests the legislative reference bureau’s assistance under this subsection. The legislative reference bureau shall comply with the auditor’s request if the auditor provides a copy of the preliminary report to the bureau at the same time the report is provided to a board, commission, or regulatory program pursuant to subsection (d).

(c) Each board or commission and the director shall assist the auditor in collecting and reporting such data as the auditor may require to conduct the evaluation. Even if the auditor finds that the chapter should not be reenacted, the auditor shall evaluate the effectiveness and efficiency of the regulatory program and make appropriate recommendations to improve the policies, procedures, and practices. The legislature may hold a public hearing on each

evaluation report. If the auditor finds that a regulatory program within the chapter should be permitted to expire, the auditor shall make recommendations, if needed, for appropriate restrictions to be placed on the program subsequent to the termination of regulation.

[(b)] (d) The legislative auditor shall provide each board, commission, or regulatory program evaluated pursuant to this chapter not less than thirty days to review and comment upon the evaluation report prior to submission of the report to the legislature; provided that if the legislative auditor fails to provide the thirty day review and comment period to the board, commission, or regulatory program being evaluated, the chapter subject to repeal shall be automatically reenacted for a period of one year. If the legislative auditor receives written comments from the board, commission, or department of commerce and consumer affairs, the legislative auditor shall append the written comments to each copy of the evaluation report prior to submission to the legislature."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

ACT 137

H.B. NO. 1940-86

A Bill for an Act Relating to Interest and Usury.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 478, Hawaii Revised Statutes, is amended to read as follows:

"CHAPTER 478 INTEREST AND USURY

§478-1 Definitions. As used in this chapter and unless a different meaning appears from the context:

"Annual percentage rate" shall have the meaning given the term in the Truth in Lending Act.

"Consumer credit" means credit extended to a natural person primarily for a personal, family, or household purpose:

- (1) In which the principal amount does not exceed \$100,000 or in which there is an express written commitment to extend credit in a principal amount not exceeding \$100,000; or
- (2) Such credit is secured by real property or by personal property used or expected to be used as the borrower's principal dwelling.

"Credit" means the right to defer payment of debt or to incur debt and defer its payment.

"Credit card" means any card, plate, coupon book, or other single credit device issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, from time to time, on credit.

"Credit card agreement" means any agreement that provides primarily for the extension of credit pursuant to the cardholder's use of a credit card. Neither an agreement providing for an overdraft line of credit nor an agreement

for a line of credit secured by equity in real property becomes a credit card agreement for the purposes of this chapter because a cardholder can access it through the use of a credit card.

"Finance charge" has the same meaning given such term by the Truth in Lending Act.

"Home business loan" means a credit transaction (a) in which the principal amount does not exceed \$100,000 or in which there is an express written commitment to extend credit in a principal amount not exceeding \$100,000, (b) which is not a consumer credit transaction, and (c) which is secured by a mortgage of the principal dwelling of any natural person who is a mortgagor named in the mortgage given as security in connection with the credit transaction.

"Real property" includes stock in a cooperative housing corporation and personal property used or intended to be used as a consumer's residence.

"Truth in Lending Act" means the federal Truth in Lending Act (15 U.S.C. 1601, et seq.), Regulation Z of the Board of Governors of the Federal Reserve System, and the Official Staff Commentary to Regulation Z prepared by the staff of the Federal Reserve Board, and amendments of the Act, Regulation Z, and such Commentary.

§[478-1] 478-2 Legal rate; computation. When there is no express written contract fixing a different rate of interest, interest shall be allowed at the rate of ten per cent a year as follows:

- (1) For money due on any bond, bill, promissory note, or other instrument of writing, or for money lent, after it becomes due;
- (2) For money due on the settlement of accounts, from the day on which the balance is ascertained;
- (3) For money received to the use of another, from the date of a demand made; and
- (4) For money upon an open account, after sixty days from the date of the last item or transaction.

§[478-2] 478-3 On judgment. Interest at the rate of ten per cent a year, and no more, shall be allowed on any judgment recovered before any court in the State, in any civil suit.

§[478-3] 478-4 Rate by written contract. (a) It shall in no case be deemed unlawful, with respect to any consumer credit transaction (except a credit card agreement) and any home business loan to stipulate by written contract, for any rate of simple interest not exceeding the greater of one per cent per month or twelve per cent per annum, and it shall in no case be unlawful, with respect to any credit card agreement, to stipulate by written contract for any rate of simple interest not exceeding the greater of one and one-half per cent per month or eighteen per cent a year. [provided the contract to that effect is signed by the party to be charged therewith.]

(b) As an alternative to the rate of interest specified in subsection (a), it shall be lawful with respect to any consumer credit transaction (except a credit card agreement) and any home business loan to stipulate by written contract for the payment and receipt of a finance charge in any form or forms at an annual percentage rate not to exceed twelve per cent, together with any other charges that are excluded or excludable from the determination of finance charge under the Truth in Lending Act, and, with respect to any credit card agreement, to stipulate by written contract for the payment and receipt of a finance charge at an annual percentage rate not to exceed eighteen per cent, together with any other charges that are excluded or excludable from the determination of finance

charge under the Truth in Lending Act. The rates in this paragraph shall be available as alternative permissible rates for any of the credit transactions referred to, whether in fact or in law the Truth in Lending Act applies to the transaction, notwithstanding the advance, fixed, or variable manner in which interest or finance charge may be computed under the contract, and whether the contract uses the terms interest, annual percentage rate, finance charge or any combination of such terms. For rate computation purposes, with respect to any contract to which this paragraph may apply, the creditor conclusively shall be presumed to have given all disclosures in the manner, form and at the time contemplated by the Truth in Lending Act, including those necessary to exclude any charges from the finance charge.

(c) With respect to any transaction other than a consumer credit transaction, a home business loan or a credit card agreement, it shall be lawful to stipulate by written contract for any rate of interest not otherwise prohibited by law.

(d) The rate limitations contained in subsections (a) and (b) of this section shall not apply to any credit transaction authorized by, and entered into in accordance with the provisions of, chapters 408 or 476.

§[478-4] 478-5 Usury not recoverable. If a greater rate of interest than that permitted by law [one per cent a month] is contracted for with respect to any consumer credit transaction, any home business loan or any credit card agreement, the contract shall not, by reason thereof, be void. But if in any action on the contract proof is made that a greater rate of interest than that permitted by law [one per cent a month] has been directly or indirectly contracted for, the [plaintiff] creditor shall only recover the principal and the [defendant] debtor shall recover [cost;] costs; provided that any bank or savings and loan association may charge, contract for, receive, collect in advance, or recover interest, discount, and other charges at the same rates and in the same amounts as permitted by law in the case of loans made by industrial loan companies licensed under chapter 408, subject to the penalties imposed by that chapter if a greater rate of interest than that permitted by chapter 408 is contracted for or there is any other violation of sections 408-15 and 408-17 applicable to licensees under chapter 408. If interest has been paid, judgment shall be for the principal less the amount of interest paid. This section shall not be held to apply [to contracts for money lent upon bottomry bonds or upon other maritime risks nor], except for the foregoing proviso, to loans made under chapter 408.

[§478-5 Acts of agent. All acts of an agent in lending money at a rate of interest in excess of one per cent a month shall bind the principal to the same extent as though the principal acted in person, and where the same person acts as the agent of the borrower and lender he shall be deemed the agent of the lender for the purposes of this chapter.]

§478-6 Usury; penalty. [Except as otherwise permitted by law, any] Any person who directly or indirectly receives any interest or finance charge[, discount, or consideration for or upon the loan or forbearance to enforce the payment of money, goods, or things in action,] at a rate greater than that permitted by law [one per cent a month] or who, by any method or device whatsoever, receives or arranges for the receipt of interest or finance charge[, increase, or profit] at a greater rate than that permitted by law [one per cent a month] on any credit transaction [loan made by him] shall be guilty of usury and shall be fined not more than \$250, or imprisoned not more than one year, or both. [The rate of one per cent a month shall cover all commissions, fees, charges, interest, increase, and profit of every character whatsoever.]

§478-7 Compound, not recoverable. No action shall be maintainable in any court of the State to recover compound interest upon any [contract] consumer credit transaction or upon any credit card agreement whatever.

§478-8 Exemptions from usury. [(a) There shall not be interposed the defense or statement of a claim of usury in any action on a contract or promissory note, the principal amount of which exceeds the sum of \$750,000.

Section 478-6 shall not apply to parties to contracts or holders of promissory notes where the principal amount of such contracts or notes exceeds the sum of \$750,000.

(b) Small business investment companies and development companies shall be exempt from this chapter. The maximum rate of interest charged by such small business investment companies and development companies on any loan shall be the maximum rate of interest permitted, without reference to state law, by the federal Small Business Administration pursuant to the Small Business Investment Act of 1958, as amended.

As used in this subsection "small business investment company" and "development company" mean a company approved by the federal Small Business Administration to operate under the provisions of the federal Small Business Investment Act of 1958, Public Law 699, as amended.]

[(c)] (a) The provision of this [This] chapter (except for this section and Section 478-3) shall not apply to any mortgage loan wholly or partially secured by a guarantee or insurance or a commitment to insure issued under the provisions of the National Housing Act, Chapter 13 of Title 12 of the United States Code, the Veterans Benefit Act, subchapters I and II of Chapter 37 of Title 38 of the United States Code, and subchapter III of Chapter 8A of Title 42 of the United States Code.

[(d) This chapter shall not apply to any mortgage loan wholly or partially secured by an alternative mortgage instrument as approved by the commissioner of financial institutions in section 402-18.]

[(e)] (b) The provisions of this chapter [expressly limiting the rate or amount of interest, discount, charges, or other consideration which may be directly or indirectly taken, received, or reserved] (except for this section and Section 478-3) shall not apply to any:

- (1) Indebtedness which is secured by a first mortgage lien on real property, [or by a first lien on stock in a residential cooperative housing corporation,] and is agreed to or incurred after May 30, 1980; [provided that for the purposes of this section a wraparound lien wherein the wraparound lender has committed to loan sufficient funds to pay off the principal amount of all prior liens shall be considered a first lien;] or
- (2) Consumer credit agreement [Agreement] of sale made after May 30, 1980 under which a vendor agrees to sell real property to a vendee but retains legal title to the real property and in which the rate of interest or the manner in which such rate shall be determined is clearly stated[.]. As used in this paragraph, agreement of sale includes subagreement of sale or other subsequent subagreement of sale made on or after June 18, 1982. [provided that] Notwithstanding the first sentence of this paragraph, with respect to any consumer credit agreement of sale made on or after July 1, 1985, upon extension at maturity or renegotiation thereof, [of any agreement of sale made on or after [July 1, 1985],] the maximum rate of interest charged thereafter shall not be more than the greater of the rate of interest payable under the agreement of sale

immediately prior to such maturity or renegotiation or four percentage points above the highest weekly average yield on United States Treasury securities adjusted to a constant maturity of three years, as made available by the Federal Reserve Board [at] within 60 days prior to the time of extension or renegotiation[. As used in this paragraph, agreement of sale includes subagreement of sale or other subsequent subagreement of sale made on or after [June 18, 1982]]; or

- (3) Indebtedness which is secured by a purchase-money junior mortgage lien on real property that is agreed to and incurred after June 18, 1982; provided that purchase-money junior mortgage lien means a mortgage that is subordinate in lien priority to an existing mortgage on the same real property which is given to the seller as part of the buyer's consideration for the purchase of real property and delivered at the same time that the real property is transferred as a simultaneous part of the transaction[.]; or
- (4) Any transaction for the sale of goods, services, or both, by a seller in the business of selling such goods or services, if the transaction is subject to Chapter 476 or the rate of interest charged by the seller in the transaction does not exceed eighteen per cent a year; provided that this paragraph shall not apply to any transaction regulated by Chapter 403, 406, 407, 408, 409, 410, or 431 or to any transaction for the sale of financial services. This paragraph shall not be deemed to limit any seller's right to charge interest under Section 478-2.

[(f)] (c) The provisions of this chapter (except for this section and Section 478-3) shall not apply to a loan made by an employee [welfare] benefit [trust] plan as defined in Section 1002(3) of Title 29 of the United States Code, as amended, [or an employee pension benefit plan approved by the Internal Revenue Service pursuant to the Employee Retirement Income Security Act of 1974 and by the United States Department of Labor] or a loan made by the Employees' Retirement System of the State of Hawaii.

[(g)] The provisions of this chapter shall not apply to farm or livestock credit corporations which are authorized by federal law to borrow directly from Federal Intermediate Credit Banks for their lending activities.

(h) The provisions of this chapter shall not apply to transactions of merchants. The maximum rate of interest charged by merchants in such transactions shall be eighteen per cent a year.

For purposes of this chapter, the term, "merchant" shall be as defined in section 490:2-104. This subsection shall not apply to any transactions regulated by Chapters 403, 406, 407, 408, 409, 410, and 431.]

[§478-8.5 Wraparound lien. A wraparound lien is a lien arising from a purchase-money loan which:

- (1) Is secured by a lien (the wraparound lien) on residential real property on which there exists one or more prior liens securing prior indebtedness;
- (2) Matures no earlier than the latest maturity date of any prior indebtedness; and
- (3) Is evidenced by a note or bond which:
 - (A) In principal amount equals the aggregate of the outstanding prior indebtedness plus the additional funds advanced by the wraparound lender;
 - (B) Requires payments by the wraparound borrower to the wraparound lender of periodic installments at least sufficient,

to make required current payments on the prior indebtedness;
and

- (C) Requires the wraparound lender to make the payments due on the prior indebtedness as long as installments are received from such borrower.]

[§478-11 Interest; credit cards. Notwithstanding any other provision to the contrary, the maximum rate of interest chargeable on indebtedness incurred under a credit card agreement shall not exceed eighteen per cent per year. For purposes of this section:

- (1) Credit card means any card, plate, coupon book, or other single credit device, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, from time to time, on credit.
- (2) Credit card agreement means any agreement that provides primarily for the extension of credit pursuant to a cardholder's use of a credit card. An agreement providing for an overdraft line of credit does not, because a cardholder can access it through the use of a credit card, become a credit card agreement for purposes of this section.]

[[§478-12] §478-9 Rejection of federal law. []] It is hereby explicitly stated by the terms of this Act that the provisions of Title V, Part A-Mortgage Usury Laws, Mortgages, Section 501(a)(1) and of Part B-Business and Agricultural Loans, of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall not apply with respect to loans, mortgages, credit sales, and advances made in this State, and that this State does not want the provisions of Title V, Part A-Mortgage Usury Laws, Mortgages, Section 501(a)(1) and of Part B-Business and Agricultural Loans, of the Depository Institutions Deregulation and Monetary Control Act of 1980 to apply with respect to loans, mortgages, credit sales, and advances made in this State.

[[§478-13] Uniform Securities Act (Modified); exempt. The provisions of this chapter shall not apply to any security regulated by chapter 485; provided that the maximum legal rate of interest permissible with respect to a security shall not exceed eighteen per cent per annum.]”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

ACT 138

H.B. NO. 1945-86

A Bill for an Act Relating to Barbering.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. [](a)[] The following chapters are hereby repealed effective December 31, 1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)

- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 460J (Pest Control Board)
- [(5) Chapter 438 (Board of Barbers)
- (6)] (5) Chapter 439 (Board of Cosmetology)
- [[](b)[]] The following chapters are hereby repealed effective December 31, 1987:
 - (1) Chapter 458 (Board of Dispensing Opticians)
 - (2) Chapter 459 (Board of Examiners in Optometry)
 - (3) Chapter 452 (Board of Massage)
 - (4) Chapter 471 (Board of Veterinary Examiners)
 - (5) Chapter 441 (Cemeteries and Mortuaries)
 - (6) Chapter 463 (Board of Detectives and Guards)
 - (7) Chapter 455 (Board of Examiners in Naturopathy)
- [[](c)[]] The following chapters are hereby repealed effective December 31, 1988:
 - (1) Chapter 465 (Board of Psychology)
 - (2) Chapter 468E (Board of Speech Pathology and Audiology)
 - (3) Chapter 359L (Factory Built Housing Advisory Board)
 - (4) Chapter 468B (Solar Energy Device Dealers)
 - (5) Chapter 468K (Travel Agencies)
 - (6) Chapter 373 (Commercial Employment Agencies)
 - (7) Chapter 442 (Board of Chiropractic Examiners)
 - (8) Chapter 448 (Board of Dental Examiners)
 - (9) Chapter 436E (Board of Acupuncture)
- [[](d)[]] The following chapters are hereby repealed effective December 31, 1989:
 - (1) Chapter 444 (Contractors License Board)
 - (2) Chapter 448E (Board of Electricians and Plumbers)
 - (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
 - (4) Chapter 466 (Board of Public Accountancy)
 - (5) Chapter 467 (Real Estate Commission)
- [[](e)[]] The following chapters are hereby repealed effective December 31, 1990:
 - (1) Chapter 447 (Dental Hygienists)
 - (2) Chapter 453 (Board of Medical Examiners)
 - (3) Chapter 457 (Board of Nursing)
 - (4) Chapter 462A (Pilotage)
 - (5) Chapter 438 (Board of Barbers)
- [[](f)[]] The following []chapters are[] hereby repealed effective December 31, 1991:
 - [[](1)[]] Chapter 448H (Elevator Mechanics Licensing Board)
 - [[](2)[]] Chapter 451A (Board of Hearing Aid Dealers and Fitters)
 - [[](3)[]] Chapter 457B (Board of Examiners of Nursing Home Administrators)
 - [[](4)[]] Chapter 460 (Board of Osteopathic Examiners)
 - [[](5)[]] Chapter 461 (Board of Pharmacy)
 - [[](6)[]] Chapter 461J (Board of Physical Therapy)
 - [[](7)[]] Chapter 463E (Podiatry)."

SECTION 2. Section 438-1, Hawaii Revised Statutes, is amended to read as follows:

“§438-1 Definitions. For the purpose of this chapter:

[(1)] "Practice of barbering" means any combination of the following practices for remuneration: shaving, cutting, trimming, singeing, shampooing, arranging, dressing, curling, [or] waving [(other than permanent waving)], or coloring the hair or beard or applying tonics or other preparation thereto; massaging, cleansing, or applying oils, creams, lotions, or other preparation to the face, scalp, or neck, either by hand or by mechanical appliances; provided that nothing in this chapter shall be construed as applicable to those persons licensed under chapter 439 to practice the occupations named therein[;].

[(2)] "Barber shop" [embraces] means any establishment or place of business wherein the practice of barbering is engaged or carried on[;] and is the primary purpose of that establishment or business.

[(3)] "Apprentice" is a person who is engaged in learning or acquiring within a barbering establishment or school, and while learning assists in, any of the practices mentioned herein under the immediate direction and supervision of a barber or instructor[;].

[(4)] "Barber" is a person, not an apprentice, who engages in and follows any of such practices[;].

[(5)] "Board" means the board of barbers created under this chapter."

SECTION 3. Section 438-7, Hawaii Revised Statutes, is amended to read as follows:

"§438-7 Applications. Each person who desires to practice as a barber or as an apprentice barber shall file with the board [of barbers] a written application, under oath, on a form prescribed and supplied by the board, shall submit satisfactory proof of the required age[, good moral character,] and freedom from infectious or contagious diseases, and shall deposit with the board the required fees and two photographs of the applicant of a size to be determined by the board."

SECTION 4. Section 438-8, Hawaii Revised Statutes, is amended to read as follows:

"§438-8 Requisites for admission to examinations and registration. The executive secretary of the board of barbers shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations and registration. The following preliminary qualifications shall be sufficient:

- (1) Apprentices shall be at least [sixteen] seventeen years of age.
- (2) Barbers shall be at least [eighteen] seventeen years of age and have practiced as a barber or an apprentice for a period of at least six months under the immediate personal supervision of a barber.

[The examination of applicants for certificates to practice shall be conducted under rules prescribed by the board, and] The board shall contract with the same professional testing service as the board of cosmetology to have the testing service prepare and provide examinations for applicants as may be required for the purposes of this chapter. The examinations shall include practical demonstrations; provided that the practical examination for waving and hair coloring shall be the same as the practical examination administered to cosmetologists; and written, or in prescribed circumstances, oral tests.

Every applicant who is required by the board to be examined shall pay an examination fee as provided in rules adopted by the director pursuant to chapter 91. The examination fee may be paid directly to the professional testing service by the director of the examinee or deposited with the director of finance to the credit of the general fund."

SECTION 5. Chapter 438, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§438- Disciplinary actions. (a) The board may take disciplinary action against any person to whom a certificate has been issued under this chapter, including but not limited to revocation of the certificate, suspension, fine, or a combination thereof, or refuse to grant or renew any certificate for any of the following causes:

- (1) Procuring a certificate through fraud, misrepresentation, or deceit;
- (2) Professional misconduct, gross negligence, or manifest incapacity;
- (3) Permitting an uncertified person to perform activities which require a certificate under this chapter;
- (4) Violation of this chapter or the rules adopted pursuant thereto;
- (5) Making any false representation or promise through advertising or otherwise;
- (6) Failing to display the certificate as provided in this chapter;
- (7) Any other conduct constituting fraudulent or dishonest dealings;
- (8) Failure to comply with a board order; or
- (9) Making a false statement on any document submitted or required to be filed by this chapter.

(b) Any person who violates this chapter or the rules adopted pursuant thereto shall be fined not less than \$100 nor more than \$1,000 for each violation.

(c) Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.”

SECTION 6. Chapter 438, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§438- Right of injunction. The department of commerce and consumer affairs may, in addition to any other remedies available, apply to a court having competent jurisdiction for an injunction to restrain any violation of this chapter.”

SECTION 7. Section 438-5, Hawaii Revised Statutes, is amended to read as follows:

“§438-5 Powers and duties of the board. (a) The board of barbers may give examinations for the issuance of certificates of registration to practice barbering; grant, revoke, or suspend [such] certificates; establish, subject to chapter 91 and with the approval of the governor and the director of commerce and consumer affairs, rules governing the practice of barbering which shall have the force and effect of law.

(b) The board may suspend or revoke a certificate of a person guilty of fraud in passing the examination or at any time guilty of grossly unprofessional or dishonest conduct, or addicted to liquor or drugs to such a degree as to render the person unfit to practice any of the occupations classified under this chapter, or knowingly advertising by means of false or deceptive statements, or failing to display the certificates as provided in section 438-9.

(c) (b) The board may require the attendance of witnesses and the production of [such] books, records, and papers as it or any person involved may desire at any hearing of any matter which the board has authority to investigate, and for the purpose may require the executive secretary to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers directed to the sheriff or chief of police of the county where [such] the witness resides or is found which shall be served and returned in the

same manner as a subpoena in a criminal case. Fees and mileage shall be paid from the funds in the state treasury for the use of the board in the same manner as other expenses of the board.

[(d)] (c) Any investigation, inquiry, or hearing which the board is empowered by law to hold or undertake may be held or undertaken by or before any member or members of the board or an appointed hearings officer and the finding or order of that member, members, or hearings officer shall be deemed to be the finding or order of the board when approved and confirmed by it."

SECTION 8. Chapter 438, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§438- Medical clearance. The board, at its discretion may request any barber to submit to such medical clearance tests, including blood tests, as the board deems appropriate to protect the public health."

SECTION 9. The board of barbers shall report to the legislature on progress made in improving the examination process prior to the convening of the regular session of 1987. Any other developments which occur subsequent to the 1987 report shall be included in a report to the legislature prior to the convening of the regular session of 1988.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 11. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 139

H.B. NO. 1946-86

A Bill for an Act Relating to Beauty Culture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 Repeal dates. [[](a)[]] The following chapters are hereby repealed effective December 31, 1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 438 (Board of Barbers)
- [(6) Chapter 439 (Board of Cosmetology)]

[[](b)[]] The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)

(7) Chapter 455 (Board of Examiners in Naturopathy)

[[[c]]] The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)
- (7) Chapter 442 (Board of Chiropractic Examiners)
- (8) Chapter 448 (Board of Dental Examiners)
- (9) Chapter 436E (Board of Acupuncture)

[[[d]]] The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)

[[[e]]] The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 462A (Pilotage)

[[[f]]] The following [[]] chapters are [[]] hereby repealed effective December 31, 1991:

- [[[1]]] Chapter 448H (Elevator Mechanics Licensing Board)
- [[[2]]] Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- [[[3]]] Chapter 457B (Board of Examiners of Nursing Home Administrators)
- [[[4]]] Chapter 460 (Board of Osteopathic Examiners)
- [[[5]]] Chapter 461 (Board of Pharmacy)
- [[[6]]] Chapter 461J (Board of Physical Therapy)
- [[[7]]] Chapter 463E (Podiatry)."

SECTION 2. Section 439-1, Hawaii Revised Statutes, is amended to read as follows:

"§439-1 Definitions. As used in this chapter:

[[1]] "Board" means the board of cosmetology of the State[;].

[[2]] "Hairdresser" means any person who for compensation engages in any one or any combination of the following practices: arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work upon the hair of another person[;].

[[3]] "Cosmetician" means any person who, with hands or mechanical or electrical apparatus or appliances, or by use of cosmetic preparations, antiseptics, tonics, lotions, or creams, engages for compensation in any one or any combination of the following practices: massaging, cleansing, stimulating, manipulating, exercising, beautifying, or doing similar work upon, the scalp, the face, neck, arms, bust, or upper part of the body, or manicuring the nails, or

removing of superfluous hair about the body of any person by means other than electrolysis[;].

[(4)] "Classified occupations" mean the occupations of hairdresser and cosmetician[;].

[(5)] "Classified practice" means any of the practices referred to in the definitions of "hairdresser" and "cosmetician"[;].

[(6)] "Operator" means a hairdresser or cosmetician[;].

[(7)] "Apprentice" means a person who is engaged in a beauty shop in learning to be an operator and while so doing assists in any of the practices of a hairdresser or cosmetician[;].

[(8)] "Student" means a person who is engaged in a school in learning to be an operator and while so doing does or assists in doing any act involved in any of the practices of a hairdresser or cosmetician[;].

[(9)] "Instructor" means a person who teaches any of the classified practices[, provided,;] provided that the term shall not be taken to include an operator who teaches apprentices in a beauty shop[;].

[(10)] "Beauty shop" means any [premises upon or within which is practiced either of the classified occupations;] establishment or place of business wherein the practice of hairdressing or cosmetology is engaged or carried on and is the primary purpose of that establishment or business.

[(11)] "School,;" "School", unless the context clearly indicates otherwise, means a school engaged in teaching any of the classified practices[;].

[(12)] "Junior operator" has the meaning set forth in section 439-12(1)[; and

(13) "Electrologist" means a person who engages in the practice of removing superfluous hair by penetration of the skin through the use of electricity]."

SECTION 3. Section 439-8, Hawaii Revised Statutes, is amended to read as follows:

"§439-8 Assistants to the board. The board of cosmetology may call to its aid any person of established reputation and known ability in the classified practices for the purpose of conducting examinations[, inspections] and investigations of any or all persons affected by this chapter. The person shall not be connected with a school teaching any of the occupations named in this chapter."

SECTION 4. Section 439-10, Hawaii Revised Statutes, is amended to read as follows:

"§439-10 Apprentices, students, and instructor-trainees. An apprentice, student, or instructor-trainee shall be registered and given a certificate to that effect upon payment of application and registration fees and submission of evidence satisfactory to the board of cosmetology that the applicant is at least sixteen years of age, [of good moral character,] is possessed of an education equivalent to the completion of four years of high school and, in the case of an instructor-trainee, has the required three years of experience as a registered operator."

SECTION 5. Section 439-11, Hawaii Revised Statutes, is amended to read as follows:

"§439-11 Application for examination. Each person who desires to practice or instruct in any of the classified practices or occupations shall file with the board of cosmetology a written application, under oath, on a form

prescribed and supplied by the board and shall submit satisfactory proof of the required age[,] and educational qualifications[, and good moral character;] and pay the required fees.”

SECTION 6. Section 439-12, Hawaii Revised Statutes, is amended to read as follows:

“§439-12 Requisites for admission to examination and registration. The executive secretary of the board of cosmetology shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations and registration[.]; provided that there shall be only nine certification categories, excluding apprentice, student, instructor-trainee, temporary operator, junior operator, temporary instructor, and technician certification; and provided further that the board may modify the number of categories only if approved by a two-thirds vote of the board. The following preliminary qualifications shall be sufficient:

- (1) An operator may be registered in any of the classified practices or occupations under this chapter upon the payment of application, examination, and registration fees for each of the practices or occupations or any one or any combination of the practices or occupations, provided the operator [is of good moral character and] has an education equivalent to the completion of four years of high school and has either (A) served the required time as an apprentice under the supervision of a registered operator or instructor, as determined by the board for any one or combination of the practices but not less than one year including two thousand hours for each of the two classified occupations; or (B) has acquired the equivalent training in a registered school, and has passed the prescribed examination or examinations to the satisfaction of the board; [and provided further that an applicant to be registered solely in the practice of removing superfluous hair by the use of electricity and commonly known and defined as the practice of electrolysis, shall have trained under the supervision of a registered electrologist for at least six hundred hours including other studies as the board may prescribe; provided further that the removal of superfluous hair by use of an electrical instrument or device which neither touches nor penetrates the skin shall not constitute the practice of electrolysis for purposes of this section;] and provided further that an applicant may be registered solely in the classified practice of a manicurist and an applicant so registered may engage in a classified practice in a barber shop, a beauty shop, or in the applicant’s own shop upon serving seven hundred hours of time as an apprentice under the supervision of a registered operator or instructor or three hundred fifty hours of training in a registered school and upon satisfying all the other requirements of this section; and provided further that an applicant may be registered solely as a “Hair Cosmetician” in the classified occupation of a cosmetician upon serving one thousand two hundred hours of time as an apprentice under the supervision of a registered operator or instructor or six hundred hours of training in a registered school and upon satisfying all the other requirements of this section. Any applicant who fails an initial examination shall thereafter pay the examination fee for any subsequent examination.

Any person who has taken but has not successfully passed the examination or examinations prescribed by the board for any one or any combination of the practices or occupations but who has satisfied all the other requirements of this section may be registered as a "Junior Operator" and may work in a beauty shop under the supervision of a licensed operator in the practices or occupations in which the person has been examined so long as the person continues to take the prescribed examination or examinations in good faith. Failure or refusal on the part of a "Junior Operator" to take any prescribed examination or examinations shall be sufficient reason for the revocation of the registration by the board.

- (2) Instructors may be registered in any of the classified practices or occupations upon the payment of application, examination, and registration fees, provided the instructors [are of good moral character and] have completed a course satisfactory to the board in the theory and practice of education and have served actively for a period of at least three years as a registered operator in the State or in another jurisdiction having standards for registration in the particular practice or occupation substantially equivalent to those of the State and have passed an examination satisfactory to the board; provided that the board may at its discretion and without regard to the requirements of this section, issue and revoke a temporary certificate to any person holding a valid existing instructor's license in another territory, county, or state having standards substantially equivalent to those in force in the State at the time of the registration, for the limited purpose of either (A) commercially demonstrating in the State, any hair or cosmetic preparations or products identifiable by a trade name or trademark; or (B) instructing in hairstyling in a registered school or under the sponsorship of any organization approved by the board until the next following instructor's examination given by the board. Instructors duly registered under chapter 453, need not be holders of instructors certificates."

SECTION 7. Section 439-14, Hawaii Revised Statutes, is amended to read as follows:

"§439-14 Examination. [The examination of applicants for certificates to practice or for registration as instructors shall be conducted under rules prescribed by the board of cosmetology, and shall include both practical demonstrations and written or oral tests and] (a) The board shall contract with the same professional testing service as the board of barbers to have the testing service prepare and provide examinations for applicants as may be required for the purposes of this chapter. The examinations shall not be confined to any specific system or method, and [such] the examinations shall be consistent with the practical and theoretical requirements of the [classified] occupations[.] as provided by this chapter; provided that the practical examination for waving and hair coloring shall be the same as the practical examination administered to barbers. The examinations shall, on a regular basis or whenever is appropriate, be updated and revised based on current job analysis surveys and other data and information relevant to the practice of cosmetology.

(b) Every applicant who is required by the board to be examined shall pay an examination fee as provided in rules adopted by the director pursuant to chapter 91. The examination fee may be paid directly to the professional testing

service by the director or the examinee or deposited with the director of finance to the credit of the general fund."

SECTION 8. Section 439-17, Hawaii Revised Statutes, is amended to read as follows:

"§439-17 Beauty shops. (a) A certificate of registration of a beauty shop may be secured by filing an application therefor and paying the application and registration fees and showing [to the satisfaction of the board of cosmetology] that the shop meets the standards of sanitation required by the rules of the department of health, that a registered managing operator who has practiced as a registered operator in the State for at least one year is in charge of the shop, and that it is adequately equipped for the practices in which it engages. The board may waive the requirement that the registered managing operator have practiced in the State, for at least one year, upon a showing that the person has had other experience as a managing operator equivalent to one year's practice in this State and upon further showing that the aforesaid requirement creates undue hardship on the shop.

(b) All certificates shall expire on December 31 in each odd-numbered year. Certificates may be renewed by payment of a biennial fee prior to the date of expiration. A lapsed certificate may be reissued upon payment of the renewal fee and a penalty fee.

(c) Nothing in this chapter shall prohibit registered operators within a beauty shop from teaching any of the practices of the classified occupations in the regular course of business; provided the owners or managers do not hold themselves out as a school, and do not hire or employ or teach, regularly, at any one time, more than one apprentice unless there [are three operators] is one operator regularly employed in the business for each apprentice."

SECTION 9. Section 321-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department of health with the approval of the governor, may prescribe such rules as it deems necessary for the public health or safety respecting:

- (1) The occupations or practices of midwives, laboratory directors, laboratory technologists, laboratory supervisors, laboratory technicians, tattoo artists, electrologists, and sanitarians;
- (2) The health, education, training, experience, habits, qualifications, or character of persons to whom certificates of registration or permits for such occupations or practices may be issued;
- (3) The health, habits, character, practices, standards, or conduct of persons holding such certificates or permits; or
- (4) The grounds or causes for revoking or suspending such certificates or permits.

Such rules shall have the force and effect of law."

SECTION 10. Chapter 439, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§439- Medical clearance. The board, at its discretion, may require any operator to submit to such medical clearance tests, including blood tests, as the board deems appropriate to protect the public health."

SECTION 11. The board of cosmetology shall report to the legislature on its progress made in implementing the Auditor's recommendations contained in the sunset evaluation report on beauty culture (Report No. 86-6), including

the improvement of the examination process, prior to the convening of each of the regular sessions of 1987, 1988 and 1989, provided that if the board is in compliance with the Auditor's recommendations at the time of the 1988 report, the 1989 report is not necessary.

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 13. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 140

H.B. NO. 2026-86

A Bill for an Act Relating to the Department of Commerce and Consumer Affairs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended to read as follows:

"§26-9 Department of commerce and consumer affairs. (a) The department of commerce and consumer affairs shall be headed by a single executive to be known as the director of commerce and consumer affairs.

(b) The department shall protect the interests of consumers, depositors, and investors throughout the State. It shall set standards and enforce all laws, rules, and regulations governing the licensing and operation of, and register and supervise the conduct of trades, businesses, and professions, including banks, insurance companies, brokerage firms, and other financial institutions.

(c) The board of acupuncture, board of public accountancy, board of barbers, board of cosmetology, boxing commission, board of chiropractic examiners, contractors license board, board of dental examiners, board of electricians and plumbers, elevator mechanics licensing board, board of registration for professional engineers, architects, and surveyors, board of hearing aid dealers and fitters, board of massage, board of medical examiners, motor vehicle industry licensing board, motor vehicle repair industry board, board of examiners in naturopathy, board of nursing, board of examiners of nursing home administrators, board of dispensing opticians, board of examiners in optometry, board of osteopathic examiners, pest control board, board of pharmacy, board of physical therapy, board of psychology, board of detectives and guards, real estate commission, board of veterinary examiners, and state board of speech pathology and audiology are placed within the department of commerce and consumer affairs for administrative purposes.

(d) Except as otherwise provided by this chapter, the functions, duties, and powers, subject to the administrative control of the director of commerce and consumer affairs, and the composition of each board and commission shall be as heretofore provided by law.

(e) Notwithstanding any provision to the contrary, the employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees under the administrative control of this department

shall be determined by the director of commerce and consumer affairs subject only to the¹ applicable personnel laws.

(f) The director of commerce and consumer affairs may appoint a hearings officer or officers not subject to chapters 76 and 77 to hear and decide any case or controversy regarding licenses and the application and enforcement of rules involving any of the boards or commissions within the department of commerce and consumer affairs. The hearings officer or officers shall have power to issue subpoenas, administer oaths, hear testimony, find facts, and make conclusions of law and a recommended decision; provided that the conclusions and decisions shall be subject to review and redetermination by the officer, board, or commission which would have heard the case in the first instance in the absence of a hearings officer. The review shall be conducted in accordance with chapter 91.

(g) The director may appoint a complaints and enforcement officer not subject to chapters 76 and 77 who shall facilitate the receipt, arbitration, investigation, prosecution, and hearing of complaints regarding any person who furnishes commodities or services for which a license is required from the department or any board or commission thereunder. In representing the State in bringing any action to enjoin unlicensed activities, the department of commerce and consumer affairs' attorneys shall be empowered to exercise all authority granted to the attorney general and to the director of the office of consumer protection under sections 487-12, 487-14, 480-3.1, 480-15, 480-15.1, 480-20(c), and 480-22, as such sections now exist and as they may be subsequently amended. The attorneys shall also be empowered to exercise all authority granted to the attorney general and to the responsible attorneys of the various counties under section 92-51 in all cases involving documents and records within the custody or control of the regulated industries complaints office.

(h) The functions and authority heretofore exercised by the treasurer (except funds custody, cash management, debt management, and administering of veterans loans transferred to the department of budget and finance) as heretofore constituted are transferred to the department of commerce and consumer affairs established by this chapter. The director of commerce and consumer affairs shall also be the commissioner of securities.

(i) In the course of an investigation of matters affecting the interest of consumers, depositors, or investors or of any other matter within the jurisdiction of the department, the director shall have the power to subpoena witnesses, examine them under oath, and require the production of books, papers, documents, or objects which the director deems relevant or material to the inquiry. Upon application by the director, obedience to the subpoena may be enforced by the circuit court in the county where the person subpoenaed resides or is found in the same manner as a subpoena issued by the clerk of a circuit court.

The director shall appoint and commission one or more investigators to serve subpoenas as the exigencies of the public service may require. Subpoenas served by persons appointed and commissioned by the director shall have the same force and effect as subpoenas served by police officers or deputy sheriffs. Nothing in this subsection shall be construed to entitle persons commissioned and appointed by the director to retirement benefits applicable to police officers under chapter 88.

(j) The director may adopt, amend, or repeal rules pursuant to chapter 91 to effectuate the purposes of all laws within the jurisdiction of the department of commerce and consumer affairs. The director's authority to adopt rules shall

not modify, impair, or otherwise affect the power of boards and commissions placed with the department of commerce and consumer affairs for administrative purposes from adopting, amending, or repealing rules, except as provided for in subsection (k). The director may establish, amend, or repeal registration, renewal, and late renewal fees by rules pursuant to chapter 91 for any regulatory program placed with the department.

(k) Any law to the contrary notwithstanding, the fees assessed or charged by any board or commission placed within the department of commerce and consumer affairs for administrative purposes or by the department for services provided to the public may be increased or decreased by the director of commerce and consumer affairs by rules adopted pursuant to chapter 91 to maintain a reasonable relation between the revenue derived from the fee and the cost or value of services rendered; provided that with regard to the fees assessed or charged by any board or commission, the director may establish the fees as separate application, examination, and license fees.

(l) Notwithstanding section 92-17 or any other law to the contrary, all boards and commissions placed within the department of commerce and consumer affairs for administrative purposes shall delegate their authority to receive, arbitrate, investigate, and prosecute complaints to the department. No board or commission shall delegate its authority to take disciplinary action against a licensee.

(m) Every licensed person under any chapter subject to section 26H-4 and every licensed person subject to chapter 485 shall pay upon issuance of a license, permit, certificate, or registration a fee of \$10 and a subsequent annual fee of \$10, which may be collected biennially or pursuant to rules adopted under chapter 91 and which shall be deposited into the special fund established under this subsection. Every filing pursuant to chapter 514E or section 485-6(15) shall be assessed, upon initial filing and at each renewal period, where such renewal is required, a fee which shall be prescribed by rules adopted under chapter 91 and which shall be deposited into the special fund established under this subsection. Any unpaid fee shall accrue and shall be paid by the licensed person upon application for renewal of a license, and by the person responsible for the renewal of any filing upon the application for renewal of the filing. If the accrued fees are not paid, the director may deny renewal of the license or filing. The director may increase or decrease the fees when necessary pursuant to rules adopted under chapter 91.

There is created in the state treasury a special fund to be expended by the director's designated representative for compliance resolution as provided by this subsection. Notwithstanding any law to the contrary, the moneys in the fund shall consist of annual fees collected under this subsection and section 514A-95 and penalties or fines assessed as a result of action brought by the personnel hired under this subsection. The director may use the moneys in the fund to employ, without regard to chapters 76 and 77, hearings officers, investigators, attorneys, accountants, and other necessary personnel. The moneys in the fund may be used to train such personnel as the director finds necessary and for any other activity related to compliance resolution.

As used in this subsection, unless otherwise required by the context, "compliance resolution" means a determination of whether (1) any licensee under any chapter subject to section 26H-4, has complied with that chapter, (2) any licensee subject to chapter 485 has complied with that chapter, or (3) any person submitting any filing required by chapter 514E or section 485-6(15) has complied with chapter 514E or section 485-6(15).

The director shall prepare and submit an annual report to the governor and the legislature on the use of the compliance resolution fund. This subsection shall be repealed effective July 1, 1991.

(n) Any law to the contrary notwithstanding, the department of commerce and consumer affairs, or any board or commission placed within it for administrative purposes, may contract with professional testing services to prepare, administer, and grade examinations and tests for license applicants. For these purposes, the department may require applicants to pay the examination fee directly to the testing agency.

(o) Any law to the contrary notwithstanding, when any type of bond or insurance required to be maintained by any licensee under a regulatory program of the department of commerce and consumer affairs, or of any board or commission assigned to the department of commerce and consumer affairs, cannot reasonably be secured, the department, board, or commission may by rule provide for alternative forms of security to the consumer so long as that alternate security is no less than that provided by the type of bond or insurance initially required."

SECTION 2. Section 461J-3, Hawaii Revised Statutes, is amended to read as follows:

"[]§461J-3[] Exemptions. (a) Nothing in this chapter shall be construed to prohibit any person from acting within the scope of a license issued to that person under any other law; provided that the person shall not claim to be a physical therapist or that the person is performing physical therapy or physical therapy services.

(b) Nothing in this chapter shall be construed to prohibit students in an educational program for physical therapists or physical therapist support personnel from participating in activities that are conducted as part of the educational program and are under the guidance and direct supervision of a licensed physical therapist.

(c) A person licensed to practice physical therapy by any other state or by a foreign country may practice physical therapy in this State if the person is part of an educational demonstration or instructional program or seminar sponsored by an educational institution, hospital, medical care program, the Hawaii Chapter of the American Physical Therapy Association, or any other similar person or group, for the duration of the program or seminar and confined to the purpose of the program or seminar.

(d) Nothing in this chapter shall be construed to prohibit any person employed as an athletic trainer in any public or private educational institution from performing physical therapy or physical therapy services as defined in section 461J-1; provided that such services are performed on regularly enrolled students, and provided further that such students are engaged in or are eligible to engage in institutionally sponsored athletic events."

SECTION 3. Section 461J-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follow:

" "Educational institution" means public and private schools as defined under chapter 297, and colleges, the University of Hawaii, and other universities."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

Note

1. "The" should be underscored.

ACT 141

H.B. NO. 2032-86

A Bill for an Act Relating to Regulation of Electricians and Plumbers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 448E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§448E- Examination. (a) Every applicant shall be examined and shall pass an examination to be eligible for licensure. The board shall provide in its rules the passing score for the examination. The board may examine applicants or may contract with professional testing services to prepare, administer, and grade the examination as may be required for the purpose of this section.

(b) Every applicant shall pay an examination fee as provided in rules adopted by the director pursuant to chapter 91. Should the board contract with a professional testing agency to prepare, administer, and grade the examination, the examination fee may be paid directly to the testing agency by the director or the examinee."

SECTION 2. Section 448E-6, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 448E-10, Hawaii Revised Statutes, is amended to read as follows:

"[[]§448E-10[]] [Violation; penalty.] Suspension; revocation; fine; denial of issuance or renewal of a license. (a) The board, after notice and hearing as provided in chapter 91, may suspend or revoke any license, impose fines, or deny the renewal of any license, or prior to such notice and hearing, deny the issuance of any license for any of the following causes:

- (1) A license was or is sought to be obtained by fraud, misrepresentation, or deceit;**
- (2) Gross negligence, incompetency, misconduct, or dishonesty in the practice of the profession;**
- (3) False, fraudulent, or deceptive advertising;**
- (4) Permitting an unlicensed person to perform activities requiring a license; or**
- (5) Violation of any provisions of this chapter and any rules of the board.**

(b) Any person who violates any provision of this chapter shall be fined not less than \$100 and not more than \$1,000[.] for each violation."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 142

H.B. NO. 2033-86

A Bill for an Act Relating to Mortgage and Collection Servicing Agents.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 454D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§454D- Powers and duties of the director of commerce and consumer affairs. In addition to any other powers and duties granted by this chapter, the director of commerce and consumer affairs shall:

- (1) Register mortgage and collection servicing agents pursuant to this chapter;
- (2) Enforce this chapter and rules adopted pursuant thereto;
- (3) Investigate the actions of any person acting in the capacity of a mortgage and collection servicing agent if there is reason to believe that there may be a violation of this chapter or the rules adopted pursuant thereto;
- (4) Fine, suspend, or revoke a registration for any cause prescribed by this chapter, or for any violation of the rules, and refuse to grant registration for any cause which would be grounds for suspension or revocation of the registration;
- (5) Apply to a court having competent jurisdiction for an injunction to restrain any violation of this chapter; and
- (6) Establish registration and biennial renewal fees for mortgage and collection servicing agents.”

SECTION 2. Section 454D-2, Hawaii Revised Statutes, is amended to read as follows:

“[] §454D-2[] Exemptions. This chapter shall not apply to the following persons:

- (1) Real estate brokers and salesmen licensed under chapter 467 and residing in the State[, to the extent they are engaged in the regular course of their business as brokers or salesmen.] who provide collection and mortgage services where the services are limited to those incident to a particular real estate transaction, or where the broker, or the salesman's broker, has an errors and commissions insurance policy in effect which has, as part of the insurance policy, coverage for activities relating to collection and mortgage services and where a copy of the insurance policy is filed annually with the department of commerce and consumer affairs;
- (2) Banks, collection agencies, credit unions, escrow depositories, industrial loan companies, savings and loan associations, and trust companies authorized to do business in the State;
- (3) [Any] A financial institution which [is an] services only Federal Housing Administration and Veterans Administration loans and has been approved as a lender [for programs administered] by the United States Department of Housing and Urban Development; provided that the financial institution files annually with the department of commerce and consumer affairs [satisfactory proof of that status;] certification that it is still an approved lender by the United States Department of Housing and Urban Development and continues to service only Federal Housing Administration and Veterans Administration loans;

- (4) Persons performing the services normally rendered by servicing agents under order of any court; and
- (5) Persons performing the services normally rendered by servicing agents, but with respect to fewer than five agreements at any one time that would otherwise come within the purview of this chapter."

SECTION 3. Section 454D-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The bond shall be [obtained from an insurance] issued by a surety company authorized to [transact the business of a surety in this State,] ~~do business in this State,~~ and shall be conditioned upon the full and faithful compliance with all requirements of this or any other [statutes] statute now in force or hereafter enacted with respect to the duties, conduct, obligations, and liabilities of servicing agents. The bond shall run to the State to the benefit of any person who has received a court judgment against the servicing agent or an employee of the servicing agent; provided that the aggregate liability of the surety shall not exceed the [sum] amount of the bond[.] issued to the servicing agents. The bond shall remain in full force and effect unless terminated or canceled by the surety, and shall by its terms provide that any [such] termination or cancellation of the bond shall not be effective unless written notice thereof is delivered by the surety to the director of commerce and consumer affairs at least thirty days prior to the date of termination or cancellation. The director of commerce and consumer affairs shall forthwith give notice thereof to the servicing agent affected by the termination or cancellation that the registration of the servicing agent shall be suspended upon termination or cancellation of the bond, unless prior thereto, a new bond has been filed with the director. Failure, refusal, or neglect of a servicing agent to maintain in full force and effect a bond as required by this section shall cause the automatic suspension of the registration of the servicing agent effective as of the date of expiration or cancellation of its bond. The director of commerce and consumer affairs shall not reinstate the registration of the servicing agent until satisfactory proof of bond coverage is submitted to the director as required by this section. Failure to effect a reinstatement of a suspended registration within sixty days of the expiration of the bond shall cause the termination of the registration, thereby forfeiting all registration and biennial renewal fees. A servicing agent, within fifteen days after receipt of the notification of the registration termination, may request an administrative hearing to review the termination pursuant to chapter 91."

SECTION 4. Section 454D-7, Hawaii Revised Statutes, is amended to read as follows:

"[[§454D-7]] [Remedies not exclusive. The remedies provided for in this chapter are in addition to and not exclusive of any other remedies provided by law.] Remedies or penalties cumulative. The remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 143

H.B. NO. 2035-86

A Bill for an Act Relating to Pharmacists and Pharmacy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 461, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§461- Powers and duties. (a) The board shall:

- (1) Adopt, amend, and repeal rules pursuant to chapter 91, as it deems proper for the purposes of this chapter;
- (2) Examine, license, and renew the licenses of qualified applicants;
- (3) Inspect, or may designate a duly authorized representative to inspect, any pharmacy or premises in the State where drugs are packed, packaged, compounded, sold, offered for sale, exposed for sale, or kept for sale to ensure compliance with this chapter and rules established by the board; and
- (4) Fine, suspend, or revoke any license or permit for any cause prescribed by this chapter, or for any violation of the rules, and refuse to grant or renew any license or permit for any cause which would be ground for revocation or suspension of a license or permit.

(b) Nothing in this chapter shall modify or limit any powers of the department of health of this State.”

SECTION 2. Chapter 461, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§461- Disciplinary action. (a) The board shall have the power to deny, revoke, or suspend any license or permit applied for or issued by the board in accordance with this chapter, and to fine or otherwise discipline a licensee or permit holder for any of the following causes:

- (1) Procuring a license through fraud, misrepresentation, or deceit;
- (2) Professional misconduct, gross carelessness, or manifest incapacity;
- (3) Permitting an unlicensed person to perform activities which require a license under this chapter;
- (4) Violation of any of the provisions of this chapter or the rules adopted pursuant thereto;
- (5) Violation of any state or federal drug, controlled substance, or poison law;
- (6) False, fraudulent, or deceptive advertising;
- (7) Any other conduct constituting fraudulent or dishonest dealings;
- (8) Failure to comply with a board order;
- (9) Making a false statement on any document submitted or required to be filed by this chapter;
- (10) Habitual intemperance or addiction to the use of habit-forming drugs.

(b) Any person who violates any of the provisions of this chapter or the rules adopted pursuant thereto shall be fined not less than \$100 nor more than \$1,000 for each violation.

(c) All proceedings for denial, suspension, fine, or revocation of a license or permit on any grounds specified in subsection (a) shall be conducted pursuant to chapter 91, including the right of judicial review."

SECTION 3. Chapter 461, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§461- Cumulative remedies. The remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 4. Section 461-1, Hawaii Revised Statutes, is amended to read as follows:

"§461-1 Definitions. For the purposes of this chapter:

- [(1) "Pharmacy" means every store, shop, or place where (A) drugs are dispensed or sold at retail, or displayed for sale at retail; or (B) where physicians prescriptions or drug preparations are compounded; or (C) which has upon it or displayed within it, or affixed to or used in connection with it, a sign bearing the word or words "pharmacist", "pharmacy", "apothecary", "drug store", "drug-gist", "drugs", "medicines", "medicine store", "drug sundries", "remedies", or any word or words of similar or like import; or (D) any store or shop or other place with respect to which any of the above words or combination of words are used in any advertisement.
- (2) "Drug" means (A) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals; and (B) articles (other than food or clothing) intended to affect the structure or any function of the body of human beings or animals; and (C) articles intended for use as a component of any articles specified in clause (A) or (B), above; provided, that the term "drug" shall not include patent medicines, electrical or mechanical devices, cosmetics, and liquor as defined in section 281-1.
- (3) "Patent medicine" means any packaged, bottled, or nonbulk chemical, drug, or medicine, when identified by and sold under a trademark, trade name, or other trade symbol privately owned or registered in the United States patent office, or registered as provided by the laws of the State, and which is labeled with directions for use, and bears the name and address of the manufacturer or distributor; provided the chemical, drug, or medicine meets the requirements of the pure food and drug laws of the United States and the State. "Patent medicine" shall not include therapeutic vitamins when used either alone, or in combination with other drugs.
- (4) "Cosmetics", which includes "soap", "dentifrice", and "toilet article", means (A) article intended to be rubbed, poured, or sprinkled on, introduced into or otherwise applied to the human body, or any part thereof for cleansing, beautifying, or promoting attractiveness; and (B) articles intended for use as a component of any such articles.

- (5) "Prescription" means and includes an order or formula issued by a licensed practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, for the compounding or dispensing of drugs.
- (6) "Registered pharmacist" means a person licensed under this chapter to practice pharmacy except where another meaning is clearly manifested by the context.
- (7) "Board" means the board of pharmacy of the State except where another meaning is clearly manifested by the context.]

"Board" means the board of pharmacy of the State except where another meaning is clearly manifested by the context.

"Cosmetics", which include "soap", "dentifrice", and "toilet article", means (1) articles intended to be rubbed, poured, or sprinkled on, introduced into, or otherwise applied to the human body, or any part thereof, for cleansing, beautifying, or promoting attractiveness; and (2) articles intended for use as a component of any such articles.

"Director" means the director of commerce and consumer affairs.

"Drug" means (1) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals; and (2) articles (other than food or clothing) intended to affect the structure or any function of the body of human beings or animals; and (3) articles intended for use as a component of any articles specified in clause (1) or (2), above; provided that the term "drug" shall not include patent medicines, electrical or mechanical devices, cosmetics, and liquor as defined in section 281-1.

"Patent medicine" means any packaged, bottled, or nonbulk chemical, drug, or medicine, when identified by and sold under a trademark, trade name, or other trade symbol privately owned or registered in the United States Patent Office, or registered as provided by the laws of the State, and which is labeled with directions for use, and bears the name and address of the manufacturer or distributor; provided that the chemical, drug, or medicine meets the requirements of the pure food and drug laws of the United States and the State. "Patent medicine" shall not include therapeutic vitamins when used either alone, or in combination with other drugs.

"Pharmacy" means every store, shop, or place where (1) drugs are dispensed or sold at retail, or displayed for sale at retail; or (2) where physicians prescriptions or drug preparations are compounded; or (3) which has upon it or displayed within it, or affixed to or used in connection with it, a sign bearing the word or words "pharmacist", "pharmacy", "apothecary", "drug store", "drug-gist", "drugs", "medicines", "medicine store", "drug sundries", "remedies", or any word or words of similar or like import; or (4) any store or shop or other place with respect to which any of the above words or combination of words are used in any advertisement.

"Prescription" means an order or formula issued by a licensed practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, for the compounding or dispensing of drugs.

"Registered pharmacist" means a person licensed under this chapter to practice in a pharmacy except where another meaning is clearly manifested by the context."

SECTION 5. Section 461-3, Hawaii Revised Statutes, is amended to read as follows:

"§461-3 Officers. (a) The board [of pharmacy] shall [select a chairman, a secretary, and a treasurer.] elect one of its members to serve as chairman. The chairman of the board shall preside at all meetings and in [his] the chairman's absence the members present shall select a chairman pro tem.

(b) The executive secretary shall, subject to the direction of the board, make and keep all records and record books required to be kept by the board and [he] shall furnish the department of health with copies [of such] of those records as it requires. [The records and record books of the board as made and kept by the secretary shall be prima facie evidence of the matter therein recorded in any court of law.

All fees collected shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund.]"

SECTION 6. Section 461-4, Hawaii Revised Statutes, is amended to read as follows:

"§461-4 Meetings; [powers and duties of board.] quorum. [(a) Meetings.] The board [of pharmacy] shall [hold meetings in April and September of each year, and at such other times as it deems necessary.] meet at least once a year and as many other times as the board may deem necessary to discharge its duties. A majority of the board shall constitute a quorum, and the concurrence of a majority of the members present shall be necessary to make any action of the board valid.

[(b) Power to suspend or revoke license. The board may suspend or revoke any license of any pharmacist to practice pharmacy, issued under this chapter, for:

- (1) Professional misconduct,
- (2) Gross carelessness,
- (3) Manifest incapacity of a licensee, or
- (4) Any violation by the licensee of this chapter or of any rule prescribed pursuant thereto.

No such license shall be suspended or revoked except upon due notice to the licensee of the charge against him and only after an opportunity for a full and fair hearing.

(c) Power to suspend or revoke permits. The board may suspend or revoke any permit to operate a pharmacy or to sell or distribute drugs, issued under this chapter, in any case, where the permittee has violated any of the provisions of this chapter or of any rule prescribed pursuant thereto. No permit shall be suspended or revoked except upon due notice to the permittee of the charge against him and only after an opportunity for a full and fair hearing.

(d) Power to regulate. The board may make such rules, not inconsistent with law, as may be necessary to carry out the purpose of this chapter, which purpose is hereby declared to be the protection of the public health and safety. The rules shall be prescribed in the manner provided in chapter 91 and with the approval of the governor and the director of commerce and consumer affairs. They shall have the force and effect of law.

(e) Power to inspect. The board or any duly authorized representative thereof may inspect drugs packed, packaged, compounded, sold, offered for sale, exposed for sale, or kept for sale in the State and for this purpose it may, during reasonable hours, enter and inspect any pharmacy or premises in the State where drugs are packed, packaged, compounded, sold, offered for sale, exposed for sale, or kept for sale.

(f) Power to investigate. The board or any member thereof, or any person designated by the board for the purpose, may investigate any violation or suspected violation of this chapter or of any rules duly prescribed by the board.

(g) Oaths. Each member of the board may administer oaths in connection with the duties of the board.

(h) Department of health, powers. Nothing in this chapter shall modify or limit any powers of the department of health of the State.]”

SECTION 7. Section 461-6, Hawaii Revised Statutes, is amended to read as follows:

“§461-6 Examination; license. (a) Every applicant shall pass [an examination with a general average of not less than seventy per cent in the subjects of pharmacy, materia medica, chemistry, toxicology and posology, compounding of prescriptions, identification of drugs, state laws, and public health rules relating to drugs, poisons, and devices used in the practice of pharmacy in the State, and such other subjects relating to the practice of pharmacy as the board of pharmacy may deem necessary for the protection of the public health.] the National Association of Boards of Pharmacy Licensure Examination (NABPLEX) with a score of not less than seventy-five, the Federal Drug Law Examination (FDLE) with a score of not less than seventy-five per cent, and the state jurisprudence examination with a score of not less than seventy-five per cent.

(b) Every application for examination shall be made on a form to be supplied by the board and shall be filed with the board at least [thirty] sixty days before the examination. Each application shall be accompanied by application and examination fees. Examinations shall be held at least twice a year. [Notice of the examination shall be given each applicant by registered mail.]

(c) Each applicant who successfully passes the examination and meets all other requirements of the board shall pay a license fee.

(d) Applicants who fail the NABPLEX, or FDLE, or state jurisprudence examination shall file an application for reexamination in the examination for which a passing score was not achieved and shall not be licensed until the applicant successfully passes all of the licensure examinations.”

SECTION 8. Section 461-7, Hawaii Revised Statutes, is amended to read as follows:

“§461-7 Temporary license. (a) An applicant for examination who is a registered pharmacist as specified in section 461-5(b), may be granted a temporary license by the board; provided that the person shall first pass [a preliminary examination] the state jurisprudence examination with a [grade] score of not less than [seventy] seventy-five per cent [covering state laws and public health rules relating to drugs, poisons, and devices used in the practice of pharmacy in the State].

(b) A temporary license shall not entitle the holder to a permanent license, and no permanent license shall be issued until the person has passed the [regular examination] licensure examinations set forth in section 461-6. Only one temporary license shall be issued to the same applicant.

(c) A temporary license shall only remain in effect until the results of the next [regular examination] licensure examinations are announced; provided that the board may extend any temporary license, upon written application, for good and just cause. Any applicant who fails to take or to pass the next [regular] licensure examination shall surrender the temporary license. The board shall receive a fee for the issuance of a temporary license.”

SECTION 9. Section 461-8, Hawaii Revised Statutes, is amended to read as follows:

"§461-8 Renewal of licenses. (a) [Renewal required.] All licenses issued by the board [of pharmacy], except temporary licenses issued under section 461-7, shall [expire on December 31 of each odd-numbered year next following the date of issuance of the same.] be renewed biennially on or before December 31 of each odd-numbered year.

[(b) Every registered pharmacist shall pay to the treasurer of the board biennially between December 1 and December 31 a renewal fee for the biennium next following. The payment of the renewal fee shall entitle the registrant to renewal of the license.

(c) (b) Any holder of any expired license may be reinstated as a registered pharmacist upon payment of a penalty fee and all fees which the person would have paid if the person had continuously renewed the [person's] license."

SECTION 10. Section 461-9, Hawaii Revised Statutes, is amended to read as follows:

"§461-9 Pharmacist in charge. (a) A registered pharmacist shall be in personal and immediate charge of [every] the pharmacy[.] and personnel employed in the pharmacy. Temporary absences of the registered pharmacist shall be unlawful except for [such] periods of time and under [such] circumstances as authorized under the rules of the board [of pharmacy]. During any absence of the registered pharmacist, prescriptions may not be filled, compounded, or received by telephone and no drugs shall be sold; provided that this shall not preclude the sale at such times of [such] things as might be sold were the pharmacy a store not subject to this chapter. No person other than a registered pharmacist or an assistant under [his] the registered pharmacist's immediate supervision shall fill or compound prescriptions.

(b) A pharmacy technician may be employed to assist the registered pharmacist under rules adopted by the board pursuant to chapter 91 that define the qualifications and functions of [such] the pharmacy technician and provide the procedures for their control and supervision by a registered [pharmacists.] pharmacist."

SECTION 11. Section 461-11, Hawaii Revised Statutes, is amended to read as follows:

"§461-11 Duties of registered pharmacist. Every registered pharmacist in charge of a pharmacy shall comply with all laws and rules. [He] The pharmacist shall be responsible for the management of the pharmacy; and every activity thereof which is subject to this chapter shall be under [his] the pharmacist's complete control. All registered pharmacists shall notify the board [of pharmacy] of changes of business address within ten days."

SECTION 12. Section 461-12, Hawaii Revised Statutes, is amended to read as follows:

"§461-12 Adequate equipment. Every pharmacy compounding drugs shall be equipped with proper pharmaceutical utensils so that the prescriptions can be properly compounded. The board [of pharmacy] shall by [regulation] rules prescribe the minimum of [such] professional and technical equipment which a pharmacy shall at all times possess, and the list shall include copies of the latest revisions of the United States [pharmacopoeia and the national

formulary,] Pharmacopoeia National Formulary, and all supplements [to them].”

SECTION 13. Section 461-14, Hawaii Revised Statutes, is amended to read as follows:

“§461-14 Permits for operation of pharmacy. (a) It shall be unlawful for any person to operate, maintain, open, change location, or establish any pharmacy within the State without first having obtained a permit [so to do] from the board [of pharmacy].

(b) Application for permits shall be made on a form to be prescribed by the board. Separate application shall be made and separate permits issued for each separate place at which is carried on any of the operations for which a permit is required.

(c) On evidence satisfactory to the board[:] a permit shall be issued, provided:

- (1) That the pharmacy for which the permit is sought is or will be, in full compliance with [all state drug, narcotic, and poison laws and] this chapter and rules of the board;
- (2) That the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; and
- (3) That the pharmacy will be under the personal and immediate supervision of a registered pharmacist[, a permit shall be issued].

(d) No application for a permit shall be refused except pursuant to this section and only after notice to the applicant and a full and fair hearing.”

SECTION 14. Section 461-16, Hawaii Revised Statutes, is amended to read as follows:

“§461-16 Fees for permits; renewal. (a) The board [of pharmacy] shall collect application and permit fees for each permit to operate a pharmacy [or to conduct or engage in the business of preparing, manufacturing, compounding, packing, or repacking any drug,] and a fee for [each permit to conduct a single auction.] the issuance of a permit in accordance with section 461-15(1) or (4).

(b) Permits issued under sections 461-14 and 461-15 shall be conspicuously displayed in the place for which the permit was granted. The permits shall not be transferable, shall expire on December 31 of each odd-numbered year following the date of issuance, and shall be renewed biennially. [A biennial renewal fee for each permit to operate a pharmacy or to conduct or engage in the business of preparing, manufacturing, compounding, packing, or repacking any drug shall be collected by the board.]

(c) The holder of an expired permit may have the same restored within three years of the date of expiration upon due application therefor and payment of the delinquent fees and a penalty fee.”

SECTION 15. Section 461-16.5, Hawaii Revised Statutes, is amended to read as follows:

“[[] §461-16.5[]] Disposition of fees; establishment of fees by rule. [All fees required by this chapter or rules adopted by the board] Application, examination, license, renewal, temporary license, and pharmacy permit fees required by this chapter, none of which are refundable, shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. All fees [required by this chapter] shall be paid to the director and shall be deposited with the director of finance to the credit of the general fund.”

ACT 144

SECTION 16. Section 461-18, Hawaii Revised Statutes, is amended to read as follows:

“§461-18 **Right of injunction.** The [board of pharmacy] department may, in addition to [the remedy set forth in section 461-17,] any other remedies available, apply to a court having competent jurisdiction [over the parties and subject matter] for an injunction to restrain [violations] any violation of this chapter.”

SECTION 17. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 18. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 144

H.B. NO. 2038-86

A Bill for an Act Relating to Medicine and Surgery.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 453-5.3, Hawaii Revised Statutes, is amended to read as follows:

“[] §453-5.3[] **Physician assistant; certification required.** (a) The board of medical examiners shall require each person practicing medicine under the supervision of a physician to be certified as a physician assistant. A person who is trained to do only a very limited number of diagnostic or therapeutic procedures under the direction of a physician shall not be deemed a practitioner of medicine and therefore does not require certification under this section.

(b) The board shall establish medical educational and training standards with which a person applying for certification as a physician assistant shall comply. The standard shall be at least equal to recognized national education and training standards for physician assistants.

(c) Upon satisfactory proof of compliance with the required medical educational and training standards, the board may grant certification to the person upon the person's satisfactory completion of a national certifying examination approved by the board.

(d) The board shall approve temporary certification of an applicant under this section if the applicant has never taken a national certifying examination approved by the board but otherwise meets the requirements of this section, has filed a complete application with the board, and has paid all required fees. If the applicant fails to apply for, or to take, the next succeeding examination or fails to pass the examination or fails to receive a certificate, all privileges under this section shall automatically cease upon written notification sent to the applicant by the board. A temporary certificate may be issued only once to each person.

(e) Prior to practicing under temporary certification, holders of temporary certificates shall notify the board in writing of any and all supervising physicians under whom they will be performing services.

[(d)] (f) The board shall establish the degree of supervision required by the supervising physician when a physician assistant performs a service within

the practice of medicine. A physician who does not supervise a physician assistant's services at the degree required by the board shall be deemed to have engaged in professional misconduct.

[~~(e)~~] (g) The certification of a physician assistant shall be subject to revocation, limitation, or suspension under section 453-8.

[~~(f)~~] (h) The board shall establish the application procedure, medical, educational, and training standards, examination requirement, if any, and degrees of supervision by rule."

SECTION 2. Section 453-8, Hawaii Revised Statutes, is amended to read as follows:

"§453-8 Revocation, limitation,¹ [~~or~~] suspension, or denial of licenses.

(a) Any license to practice medicine and surgery may be revoked, limited, or suspended by the board of medical examiners at any time in a proceeding before the board, ~~or may be denied~~, for any one or more of the following acts or conditions on the part of the holder of such license[:~~]~~ or the applicant therefor:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients for one's self;
- (3) Engaging in false, fraudulent, or deceptive advertising, including, but not limited to:
 - (A) Making excessive claims of expertise in one or more medical specialty fields;
 - (B) Assuring a permanent cure for an incurable disease; or
 - (C) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;
- (4) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- (5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- (6) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
- (7) Professional misconduct or gross carelessness or manifest incapacity in the practice of medicine or surgery;
- (8) Negligence or incompetence, including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary;
- (9) Conduct or practice contrary to recognized standards of ethics of the medical profession as adopted by the Hawaii Medical Association or the American Medical Association;
- (10) Violation of the conditions or limitations upon which a limited or temporary license is issued;
- (11) Revocation, suspension, or other disciplinary action by another state of a license or certificate for reasons as provided in this section;
- (12) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a physician, notwithstanding any statutory provision to the contrary;
- (13) Violation of chapter 329, uniform controlled substance act, or any [regulation promulgated] rule adopted thereunder; [~~or~~]

- (14) Failure to report to the board, in writing, any disciplinary [action taken] decision issued against the licensee or the applicant in another jurisdiction[.] within thirty days after the disciplinary decision is issued; or
 - (15) Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement or omission of fact.
- (b) If any license is revoked, limited, [or] suspended, or denied by the board for any act or condition listed in this section, the board shall notify the holder of, or the applicant for, the license in writing of the revocation, limitation, [or] suspension[.], or denial. Any license to practice medicine and surgery which has been revoked under this section may be restored by the board."

SECTION 3. Section 453-8.2, Hawaii Revised Statutes, is amended to read as follows:

"§453-8.2 Disciplinary action. (a) In disciplining a licensee in a proceeding under section 453-9, the board may impose one or more of the following actions:

- (1) Place the licensee on probation, including such conditions of probation as requiring observation of the licensee by an appropriate group or society of licensed physicians or surgeons.
 - (2) Suspend the license.
 - (3) Revoke the license.
 - (4) Limit the license by restricting the fields of practice in which the licensee may engage.
 - (5) Fine the licensee, including assessment against the licensee of the costs of the disciplinary proceedings. Any fine imposed by the board after a hearing in accordance with chapter 91 shall be not less than \$500 and not more than \$5,000 for each violation, exclusive of the costs of the disciplinary proceedings.
 - (6) Temporarily suspend the license for not more than thirty days without a hearing, when the board finds the practice of the licensee probably constitutes an immediate and grave danger to the public.
 - (7) Require further education or training or require proof of performance competency.
- (b) Unless otherwise expressly provided, the actions, remedies, or penalties provided by this chapter are cumulative to each other and to the actions, remedies, or penalties available under all other laws of this State."

SECTION 4. Section 453-9, Hawaii Revised Statutes, is amended to read as follows:

"§453-9 Hearing; procedure. In any proceeding before the board of medical examiners for the revocation, limitation, or suspension of a license to practice medicine and surgery for any act or condition listed in section 453-8, the person whose license is sought to be revoked, limited, or suspended shall be given notice and opportunity for hearing in conformity with chapter 91.

Any applicant whose application for a license to practice medicine and surgery has been denied shall be given notice and the opportunity for a hearing pursuant to chapter 91."

SECTION 5. Section 453-32.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§453-32.5]] Temporary certification. The board shall approve temporary certification of an applicant under section 453-32 if the applicant has [not] never taken the written and practical examination of the National Registry of Emergency Medical Technicians for that level of practice but otherwise meets the requirements of section [453-32(1).] 453-32, has filed a complete application with the board, and has paid all required fees.

[The temporary certification shall be valid until the results are issued by the board for the written and practical examination immediately following the date of temporary certification, unless sooner revoked for good cause.]

If the applicant fails to apply for, or to take, the next succeeding examination or fails to pass the examination or fails to receive a certificate, all privileges under this section shall automatically cease upon written notification sent to the applicant by the board. A temporary certificate for each level of practice may be issued only once to each person.

Prior to practicing under temporary certification, applicants shall notify the board in writing of any and all employers under whom they will be performing services.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 12, 1986.)

Note

1. Comma should be underscored.

ACT 145

S.B. NO. 1762-86

A Bill for an Act Relating to Removal of Constraints Inhibiting the Establishment and Expansion of Correctional Industries.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 354-2, Hawaii Revised Statutes, is amended to read as follows:

“§354-2 Establishment of industries at the state prison and other correctional facilities. The department of social services and housing shall, with the advice and assistance of the department of planning and economic development[,], and local business firms dealing in correctional industrial enterprises, be responsible to study and evaluate any proposed or existing correctional industrial enterprise to determine if the enterprise conflicts with the orderly and planned economic development of the State. The department of social services and housing may:

- (1) Introduce productive industrial and agricultural enterprises in the state correctional facilities under the jurisdiction of the director of social services [and housing] and pay to assigned inmates an hourly wage based on the income that is derived from correctional industries.
- (2) Determine the advisability and suitability of establishing, expanding, diminishing, or discontinuing any industrial or agricultural enterprise [involving a gross annual production of more than \$25,000 value, but in no case more than \$350,000 value,] and

authorize or prohibit such action. [The department shall determine the gross annual production, within the limit set above, of each new enterprise at the time of its establishment. The annual production so set shall not be increased until a public hearing concerning the proposed increase has been held before the department. The department shall annually adjust the maximum gross annual production value of \$350,000 permitted for each enterprise, the purpose of such adjustment being to keep the limit in balance with changes in population of state institutions and changes in cost of production and any conflict with private business.]

- (3) Provide contracted access for authorized industries to correctional facilities, adequate space to perform their industrial and agricultural enterprises, adequate facilities for loading and storing of raw materials, equipment, and tools, and procedures safeguarding the health and safety of the working residents, industry and correctional personnel, as well as the security of the facilities.

[An industrial enterprise with a gross annual production of over \$25,000 shall not be established without a public hearing.] When deemed necessary in the public interest, the department of social services and housing shall hold public hearings when establishing or expanding an industrial or agricultural enterprise. Public notice of the hearing shall be given prior to the hearing. The department may hold public hearings on any subject within its jurisdiction."

SECTION 2. Section 354-11, Hawaii Revised Statutes, is amended to read as follows:

"§354-11 [Appropriation] Authority for buildings, equipment, etc., self-liquidating; contracts. In order to carry out this chapter, [there is hereby appropriated out of the moneys in the state general fund, not otherwise appropriated, the sum of \$1, and] the department of social services and housing is authorized to [expend such moneys from such appropriation as may be necessary to] erect buildings, to purchase equipment, to procure tools, supplies, and materials, to purchase, install, or replace equipment, to employ personnel, and otherwise to defray the necessary expenses incident to the employment of prisoners [as herein provided, and further to aid in the above purposes of the]. The department of social services and housing, it] may enter into contracts and agreements with any person or persons upon a self-liquidating basis respecting the acquisition and purchase of any such equipment, tools, supplies, and materials, to the end that the same may be paid for over a period of not exceeding ten years, and the aggregate amount of such purchases or acquisitions not to exceed [\$100,000] \$500,000 unless the expenditure of any larger sum is specifically approved by the governor, such amounts to be payable solely out of revenues derived from the activities authorized by this chapter."

SECTION 3. Section 354-12, Hawaii Revised Statutes, is amended to read as follows:

"§354-12 Revenue a special fund in state treasury; expenditures; limitation on amount; transfer of excess; general fund use. (a) All moneys collected by the department of social services and housing from the sale or disposition of inmate services or articles and products manufactured or produced by prison labor in accordance with this chapter shall be forthwith deposited with the state comptroller to be there kept and maintained as a special revolving account designated "Correctional Industries Account", and such moneys so collected and deposited shall be used [solely] for the purchase or lease

of supplies, equipment, and machinery, [and] the construction or leasing and renovating of buildings used to carry out the purposes of this chapter, and the salaries of personnel necessary to administer the enterprises established in accordance with this chapter and to otherwise defray the necessary expenses incident thereto, including the expenses incurred in carrying out section 354-2, all of which shall be under the direction and subject to the approval of the department of social services and housing; provided that the "Correctional Industries Account" shall never be maintained in excess of the amount necessary to efficiently and properly carry out the purposes of this chapter. When, in the opinion of the governor, the "Correctional Industries Account" has reached a sum in excess of the requirements of this chapter, the excess shall be transferred by the department of social services and housing to the state general fund.

(b) When, in the opinion of the governor, the "Correctional Industries Account" has reached a sum that is insufficient to meet the requirements of this chapter, the governor is authorized to transfer general funds to the "Correctional Industries Account" in such amounts that will allow correctional industries to generate sufficient funds to meet the requirements of this chapter."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 13, 1986.)

ACT 146

S.B. NO. 1961-86

A Bill for an Act Relating to Aloha Tower Development Corporation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 206J-1, Hawaii Revised Statutes, is amended to read as follows:

"[[§206J-1]] **Findings and purpose.** The legislature finds that the area in downtown Honolulu on the waterfront, bounded by piers 8, 9, 10, and 11 and Nimitz Highway, including the Hale Awa Ku Moko Building and Irwin Memorial Park, hereinafter called the Aloha Tower complex, is one of the most valuable properties in downtown Honolulu and that certain portions of this area should be redeveloped, renovated, or improved to better serve the economic, maritime, and recreational needs of the people of Hawaii.

The legislature further finds that the Aloha Tower complex still serves a vital maritime function that must be maintained to insure adequacy and viability for existing and future maritime activities.

The purpose of this chapter is to establish a new public body corporate and politic [and], public instrumentality, and agency of the State for the purpose of undertaking the redevelopment of the Aloha Tower complex to strengthen the international economic base of the community in trade activities, to enhance the beautification of the waterfront, and in conjunction with the department of transportation, to better serve modern maritime uses, and to provide for public access and use of the waterfront property. Properly developed, the Aloha Tower complex will further serve as a stimulant to the commercial activities of the downtown business community and help transform the waterfront into a "people place."

The legislature finds and determines that the purpose of this chapter is in the public interest and constitutes a valid public purpose.”

SECTION 2. Section 206J-2, Hawaii Revised Statutes, is amended to read as follows:

“§206J-2 Definitions. As used in this chapter, unless the context clearly requires otherwise:

[(1)] “Board” means the board of directors of the development corporation established in section 206J-4, and any successor thereto.

[(2)] “Bonds” means revenue bonds, special facilities revenue bonds, notes, or other instruments of indebtedness of the development corporation issued under this chapter and shall include refunding bonds.

[(3)] “Development corporation” means the Aloha Tower Development Corporation established by section 206J-4.

[(4)] “Maritime” means the administration of chapter 266 by the department of transportation.

[(5)] “Project” means a public undertaking, improvement, or system consisting of a work or improvement including personal property or any interest therein, acquired, constructed, reconstructed, rehabilitated, improved, altered, or repaired by the development corporation, and including public facilities[.] and, any law to the contrary notwithstanding, facilities for and functionally related and subordinate to maritime purposes.

[(6)] “Project cost” means the total cost in carrying out all undertakings that the development corporation deems reasonable and necessary for the development of a project, including but not limited to the cost of studies, surveys, plans, and specifications, architectural, design, engineering, or any other special related services; the cost of site preparation and development, demolition, construction, reconstruction, rehabilitation, and improvement; the cost of financing such project, including interest on bonds issued to finance such project from the date thereof to the estimated date of completion of such project as determined by the board; the cost of an allocable portion of the administrative and operating expenses of the development corporation related to the development of such project; and the cost of any indemnity and surety bonds, premiums on policies of insurance, legal fees, and fees and expenses of trustees, depositories, and paying agents for the bonds; all as the development corporation shall deem necessary.

[(7)] “Public agency” means any office, department, board, commission, bureau, division, public corporation, agency, or instrumentality of the federal, state, or county government.

[(8)] “Public facilities” means streets, utility and service corridors, and utility lines where applicable, sufficient to adequately service developable improvements in the area, parking garages, sidewalks, pedestrian ways, parks, and other community facilities.

[(9)] “Qualified person” means any individual, partnership, corporation, or any public agency, possessing the competence, expertise, experience, and resources, including financial, personnel, and tangible resources, required for the purposes of the project and such other qualifications as may be deemed desirable by the development corporation in administering this chapter.

[(10)] “Real property” means lands, structures, and interests therein and natural resources including water, minerals, and all such things connected with land, including lands under water and riparian rights, space rights, and air rights and any and all other things and rights usually included within the term. Real property also means any and all interests in such property less than fee title,

such as leasehold interests, easements, incorporeal hereditaments, and every estate, interest, or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages, or otherwise.”

SECTION 3. Section 206J-4, Hawaii Revised Statutes, is amended to read as follows:

“**[[§206J-4[] Aloha Tower Development Corporation; established. (a)** There is established the Aloha Tower Development Corporation, which shall be a public body corporate and politic [and], a public instrumentality, and an agency of the State. The development corporation shall be placed within the department of planning and economic development for administrative purposes, pursuant to section 26-35.

(b) The development corporation shall consist of a board of directors having seven voting members. The director of planning and economic development, the director of transportation, the chairperson of the board of land and natural resources, and the mayor of the city and county of Honolulu, or their respective designated representatives, shall serve as ex officio voting members. Three members from the public at large shall be appointed by the governor for staggered terms pursuant to section 26-34 and shall also serve as voting members; provided that no public member shall be an officer or employee of the State or its political subdivisions. All members shall continue in office until their respective successors have been appointed. The director of [the] planning and economic development shall serve as chairperson of the board.

(c) The members of the board appointed under subsection (b) shall serve without compensation, but each member shall be reimbursed for expenses, including travel expenses, incurred in the performance of their duties.

(d) The board shall appoint a chief executive officer. The board shall set the salary of the executive officer, who shall serve at the pleasure of the board and shall be exempt from chapters 76 and 77.”

SECTION 4. Section 206J-6, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The development corporation or its lessees shall not exercise any jurisdiction over the provided replacement facilities located within the Aloha Tower complex required for necessary maritime purposes and activities[.]; except that facilities functionally related and subordinate to maritime purposes, such as hotel facilities for maritime passengers, concession facilities adjacent to maritime terminal facilities, public parking facilities which are situated on property not currently under the jurisdiction of the department of transportation, and office facilities may be under the jurisdiction of the development corporation or its lessees. Jurisdiction over any such replacement facilities shall be in the department of transportation.”

SECTION 5. Section 206J-8, Hawaii Revised Statutes, is amended to read as follows:

“**[[§206J-8[] Use of public lands.** The governor may set aside applicable portions of the area designated as the Aloha Tower complex to the development corporation for the purpose specified in this chapter; provided that such setting aside would not impair any covenant between the State or any department or board thereof and holders of revenue bonds issued by the State or such department or board, or the development corporation may lease applicable portions of the Aloha Tower complex from the department of transportation. The development corporation shall annually reimburse to the department of

transportation any losses in revenues caused by any action of the development corporation. The development corporation shall provide replacement facilities for maritime activities at no cost to the department of transportation."

SECTION 6. Section 206J-9, Hawaii Revised Statutes, is amended to read as follows:

"[] §206J-9[] **Construction contracts.** The development corporation shall award construction contracts in conformity with chapter 103 and this chapter."

SECTION 7. Section 206J-10, Hawaii Revised Statutes, is amended to read as follows:

"[] §206J-10[] **Public projects.** Any project or activity of any public agency of the State in the Aloha Tower complex shall be constructed, renovated, or improved in consultation with the development corporation and the department of transportation."

SECTION 8. Section 206J-11, Hawaii Revised Statutes, is amended to read as follows:

"[] §206J-11[] **Lease of projects.** The development corporation may lease for a term not exceeding sixty-five years, all or any portion of the real, personal, or mixed property constituting a project under its jurisdiction as provided herein to any qualified person, upon such terms and conditions as may be approved by the board, if the board finds that the lease is in conformity with the development plan for the Aloha Tower complex. Notwithstanding any other provision to the contrary, the development corporation shall establish requirements and conditions relating to the terms of lease and the qualifications of any person to draw or bid for the lease."

SECTION 9. Section 206J-12, Hawaii Revised Statutes, is amended to read as follows:

"§206J-12 **Bonds; bond anticipation notes.** (a) The development corporation, with the approval of the governor, may issue bonds in such amounts as authorized from time to time by law and as deemed advisable for any of its corporate purposes. The principal of, premium, if any, and interest on such bonds shall be payable, subject to the prior payment to the harbor special fund for the loss of revenues or incurrence of costs and expenses because of any action taken by the development corporation or of any rent payable to the department of transportation for the lease of properties within the Aloha Tower complex:

- (1) Exclusively from the moneys derived from rates, rentals, fees, and charges of the project financed with the proceeds of such bonds imposed under section 206J-5(b), or from such moneys together with any grant from the government in aid of such project; or
- (2) Exclusively from the moneys derived from rates, rentals, fees, and charges of certain designated projects imposed under section 206J-5(b), whether or not they are financed in whole or in part with the proceeds of the bonds; or
- (3) From [its] the moneys derived from rates, rentals, fees, and charges imposed under section 206J-5(b), generally[.], and any other revenues derived by the development corporation from whatever source.

All revenue bonds authorized by this section shall be issued pursuant to part III of chapter 39, except as provided in this chapter. The bonds shall be secured by

a pledge of such moneys and may be additionally secured by a mortgage of any project or other property of the development corporation to the extent of its interest therein. Neither the board members nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

(b) Bonds issued pursuant to this chapter may be in one or more issues and in one or more series within an issue and shall be authorized pursuant to resolution of the board. The bonds shall be dated, [shall] may bear interest at such rate or rates[,] payable at such time or times as the corporation may determine with the approval of the governor, except for deeply discounted bonds which are subject to redemption or retirement at the accreted value thereof; provided that the discounted value of such bonds shall not exceed ten per cent of issue and no such bond shall be issued without prior approval of the director of finance and the governor, shall mature at such time or times not exceeding forty years from their date or dates, shall have such rank or priority, and may be made redeemable before maturity at the option of the development corporation, the holders, or either, at such price or prices and under such terms and conditions, all as may be determined by the development corporation. The development corporation shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and, subject to the approval of the state director of finance, the place or places of payment of principal and interest, which may be at any bank or trust company approved by the state director of finance within or without the State. The bonds may be issued in coupon or in registered form, or both, as the development corporation may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The development corporation may sell bonds in such manner, either at public or private sale, and for such price as it may determine.

(c) Prior to the preparation of definitive bonds, the development corporation may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(d) Should any bond issued under this chapter or any coupon appertaining thereto become mutilated or be lost, stolen, or destroyed, the development corporation may cause a new bond or coupon of like date, number, and tenor to be executed and delivered in exchange and substitution for, and upon the cancellation of such mutilated bond or coupon, or in lieu of and in substitution for, such lost, stolen, or destroyed bond or coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond or coupon (1) has paid the reasonable expense and charges in connection therewith, (2) in the case of a lost, stolen, or destroyed bond or coupon, has filed with the development corporation or its fiduciary evidence satisfactory to the development corporation or its fiduciary that such bond or coupon was lost, stolen, or destroyed and that the holder was the owner thereof, and (3) has furnished indemnity satisfactory to the development corporation.

(e) The development corporation in its discretion may provide that CUSIP identification numbers shall be printed on such bonds. In the event such numbers are imprinted on any such bonds (1) no such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted, and (2) no liability shall attach to the development corporation or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for such

bonds by reason of such numbers or any use made thereof, including any use thereof made by the development corporation, any such officer, or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The development corporation in its discretion may require that all costs of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this subsection, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

(f) Whenever the development corporation has authorized the issuance of bonds under this chapter, bond anticipation notes of the development corporation may be issued in anticipation of the issuance of such bonds and of the receipt of the proceeds of sale thereof, for the purposes for which such bonds have been authorized. All bond anticipation notes shall be authorized by the development corporation, and the maximum principal amount of such notes shall not exceed the authorized principal amount of such bonds. The notes shall be payable solely from and secured solely by the proceeds of sale of the bonds in anticipation of which the notes are issued and the moneys[,] derived from rates, rents, fees, and charges, and other revenues from which would be payable and by which would be secured such bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of such bonds, the maximum amount of bonds that has been authorized in anticipation of which the notes are issued shall be reduced by the amount of notes paid in such manner. The authorization, issuance, and the details of such notes shall be governed by this chapter with respect to bonds insofar as the same may be applicable; provided that each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this subsection shall mature within five years from the date of the original note.

(g) In order to secure the payment of any of the bonds issued pursuant to this chapter, and interest thereon, or in connection with such bonds, the development corporation shall have the power as to such bonds:

- (1) To pledge all or any part of the moneys[,] derived from rates, rents, fees, and charges, and other revenues derived by the development corporation as provided in this chapter to the punctual payment of bonds and interest thereon, and to covenant against thereafter pledging any such moneys[, notes, charges,] and other revenues to any other bonds or any other obligations of the development corporation for any other purpose, except as otherwise stated in the proceedings providing for the issuance of bonds permitting the issuance of additional bonds to be equally and ratably secured by a lien upon such moneys[, rates, charges,] and other revenues.
- (2) To pledge and assign the interest of the development corporation under any lease and other agreements related to a project and the rights, duties, and obligations of the development corporation thereunder, including the right to receive [revenues] payments thereunder.
- (3) To covenant as to the use and disposition of the proceeds from the sale of such bonds.
- (4) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.
- (5) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default", the terms and conditions upon which any or all of such bonds shall become or may be declared due

before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

- (6) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation.
- (7) Subject to the approval of the state director of finance, to designate a national or state bank or trust company within or without the State, incorporated in the United States, to serve as trustee for the holders of the bonds and to enter into a trust indenture, trust agreement, or indenture of mortgage with such trustee. The trustee may be authorized by the development corporation to receive and receipt for, hold, and administer the proceeds of such bonds and to apply the same to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the moneys[,] derived from rates, rents, fees, and charges, and other revenues derived by the development corporation under a lease or other agreement related to a project, and to apply such moneys[, rents, charges,] and other revenues to the payment of the principal of and interest on such bonds, or both, and any excess moneys[, rents, charges,] and other revenues to the payment of expenses incurred by the development corporation in administering such bonds or in carrying out such lease or other agreement. In the event that such trustee shall be appointed, any trust indenture, trust agreement, or indenture of mortgage entered into by the development corporation with the trustee may contain whatever covenants and provisions as may be necessary, convenient, or desirable in order to secure such bonds. The development corporation may pledge and assign to the trustee the interest of the development corporation under a lease and other agreements related to a project and the rights, duties, and obligations of the development corporation thereunder, including the right to receive revenues thereunder. The development corporation may appoint the trustee to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption of the bonds, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the development corporation may deem necessary, advisable, or expedient, including without limitation the authentication of bonds and the holding of the bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with law.
- (8) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants and duties.
- (9) To make such covenants and do any and all acts and things as may be necessary, convenient, or desirable in order to secure such bonds, notwithstanding that such covenants, acts, or things may not be enumerated in this chapter.

No holder or holders of any bonds issued under this chapter shall ever have the right to compel any exercise of taxing power of the State to pay such bonds or the interest thereon and no moneys other than the revenues pledged to such bonds shall be applied to the payment thereof.

(h) Bonds bearing the signature or facsimile signature of officers in office on the date of the signing thereof shall be valid and sufficient for all purposes,

notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the development corporation. The bonds shall contain a recital that they are issued pursuant to this chapter which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(i) The development corporation may issue bonds for the purpose of refunding any bonds then outstanding and issued under this chapter whether or not such outstanding bonds have matured or are then subject to redemption. The development corporation may issue bonds for the combined purposes of (1) financing or refinancing the cost of a project, improvement, or expansion thereof, and (2) refunding bonds which shall theretofore have been issued under this chapter and shall then be outstanding, whether or not such outstanding bonds have matured or are then subject to redemption. Nothing in this subsection shall require or be deemed to require the development corporation to elect to redeem or prepay bonds being refunded, or to redeem or prepay bonds being refunded which were issued, in the form customarily known as term bonds in accordance with any sinking fund installment schedule specified in any proceedings authorizing the issuance thereof, or, in the event the development corporation elects to redeem or prepay any such bonds, to redeem or prepay as of any particular date or dates. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the development corporation with respect to the bonds, shall be governed by the foregoing provisions of this chapter insofar as the same may be applicable."

SECTION 10. Section 206J-13, Hawaii Revised Statutes, is amended to read as follows:

"[]§206J-13[] State and political subdivisions not liable on bonds. The bonds and other obligations of the development corporation (and such bonds and obligations shall so state on their face) shall not be a debt of the State or of any political subdivision; neither the State nor any political subdivision shall be liable thereon, nor in any event shall they be payable solely out of funds or properties other than those of the development corporation pledged thereto."

SECTION 11. Section 206J-14, Hawaii Revised Statutes, is amended to read as follows:

"[]§206J-14[] Bonds exempt from taxation. Bonds and the income therefrom issued pursuant to this chapter shall be exempt from all state and county taxation except [inheritance, transfer, and] estate and transfer taxes."

SECTION 12. Section 206J-15, Hawaii Revised Statutes, is amended to read as follows:

"[]§206J-15[] Bonds as legal investments and lawful security. Bonds issued pursuant to this chapter shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for all public funds of the State or other political corporations or subdivisions of the State. Such bonds shall be eligible to secure the deposit of any and all public funds of the State and any and all public funds of counties or other political corporations or subdivisions of the State, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto."

SECTION 13. Section 206J-16, Hawaii Revised Statutes, is amended to read as follows:

“[]§206J-16[] Exemption from taxation of development corporation. All revenues derived by the development corporation from any project or under a lease or other agreement pertaining thereto shall be exempt from all state and county taxation. Any right, title, and interest of the development corporation in any project shall also be exempt from all state and county taxation. Except as otherwise provided by law, the interest of a qualified person or other user of a project under a lease or other agreements related to a project shall not be exempt from taxation to a greater extent than it would be if the costs of the project were directly financed by the qualified person or other user.”

SECTION 14. Section 206J-17, Hawaii Revised Statutes, is amended to read as follows:

“[]§206J-17[] Aloha Tower fund. There is created the Aloha Tower fund. All moneys, rentals, charges, and other revenues of the development corporation shall be deposited into the fund; provided that the development corporation may establish a separate account with respect to each issue of bonds issued under this chapter and direct the moneys, rentals, charges, and other revenues pledged to the payment of such issue of bonds be credited to such account and, as permitted by section 206J-12(g)(7), designate a trustee to receive and receipt for, hold, and administer the moneys in such account. In the event moneys are to be credited to a separate account held by a trustee as aforesaid, such moneys may be paid directly to such trustee with appropriate entries made with respect to the fund for purposes of accounting. The moneys on deposit in the fund shall be used for the purposes of this chapter.”

SECTION 15. Section 206J-18, Hawaii Revised Statutes, is amended to read as follows:

“[]§206J-18[] Assistance by state and county agencies. Every state or county agency may render services upon request of the development corporation.”

SECTION 16. Section 206J-19, Hawaii Revised Statutes, is amended to read as follows:

“[]§206J-19[] Annual report. The development corporation shall submit to the governor and the legislature, at least twenty days prior to the start of each regular session, a complete and detailed report of its activities.”

SECTION 17. Section 206J-20, Hawaii Revised Statutes, is amended to read as follows:

“[]§206J-20[] Court proceedings; preference. Any action or proceeding to which the development corporation, the State, or a county may be a party, in which any question arises as to the validity of this chapter, shall be preferred over all other civil causes, except election cases, without respect to position on the calendar. The same preference shall be given upon application of counsel to the development corporation in any action or proceeding questioning the validity of this chapter in which the development corporation has duly intervened.”

SECTION 18. Section 206J-21, Hawaii Revised Statutes, is amended to read as follows:

"[[§206J-21[]] Construction of this chapter. The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law. Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, this chapter shall be controlling."

SECTION 19. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 20. This Act shall take effect upon its approval.

(Approved May 13, 1986.)

ACT 147

S.B. NO. 2359-86

A Bill for an Act Relating to Industrial Development Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

SECTION 2. The legislature finds that the economy of the State has followed the recent high unemployment and recessionary trends of the national economy. Persistent high interest rates for industrial enterprise borrowers together with the prevailing symptoms of recession combine to create special and substantial obstacles to the raising of new capital and inhibits the introduction of new industry to diversify the economic base of the State, create new employment opportunities, increase tax revenues, and stimulate the inflow of new capital into the State. The legislature therefore finds that the establishment of new industry should be one of the priority considerations in the issuance of special purpose revenue bonds.

The legislature further finds that part V, chapter 39A, Hawaii Revised Statutes, permits the State to financially assist in the establishment of new industry by using the proceeds from special purpose revenue bonds.

SECTION 3. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$6,000,000 in one or more series for the purpose of assisting Hawaiian Abalone Farms Limited Partnership, or a successor corporation in the generation of new capital for activities and facilities at the natural energy laboratory of Hawaii, or any other suitable location in the State. The legislature finds and determines that the activity and facilities of Hawaiian Abalone Farms constitutes a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 4. The special purpose revenue bonds issued under this Act shall be pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 13, 1986.)

ACT 148

H.B. NO. 1826-86

A Bill for an Act Relating to Intoxicating Liquor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 281, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§281- One-day special licenses for fundraising events. Notwithstanding any other section of this chapter to the contrary, the commission shall adopt rules to streamline procedures including the waiving of hearings, fees, notarization of documents, submission of floor plans, and other requirements, to provide for the issuance of special licenses for the sale of liquor for a period not to exceed one day, for classes of fundraising events established by the commission. The commission shall also adopt rules to facilitate the issuance of such licenses through the mail.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 13, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 149

H.B. NO. 1829-86

A Bill for an Act Relating to County Licenses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 445, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§445- Definitions. When used in this chapter, unless the context requires otherwise:

“Hotel or boardinghouse” means a building or buildings having at least ten rooms for the accommodation of guests.

“Lodging or tenement house” means any building or portion thereof containing no more than nine rooming units, in which space is let by the owner or operator to three or more unrelated persons.

“Restaurant” means a building in which the principal business is the furnishing of meals for pay.”

SECTION 2. Section 445-92, Hawaii Revised Statutes, is amended to read as follows:

“§445-92 Fee, hotel [and] or boardinghouses. The annual fee for a license to keep a hotel [and] or boardinghouse shall be \$10. [A hotel or boardinghouse, under this section, means a building or buildings having at least ten rooms for the accommodation of guests.]”

SECTION 3. Section 445-93, Hawaii Revised Statutes, is amended to read as follows:

"§445-93 Fee, [for] restaurant[.]; restrictions. (a) The annual fee for a license to keep a restaurant shall be \$10; provided[,] that in the case of religious, charitable, and educational institutions not regularly engaged in such business the fee for the license shall be \$1. [A restaurant, under this section, means a building in which meals are furnished as the principal business for pay.]

(b) No bedrooms or sleeping accommodations for hire shall be allowed on the premises of the restaurant."

SECTION 4. Section 445-94, Hawaii Revised Statutes, is amended to read as follows:

"§445-94 Certificate, department of health. No license shall be issued for a lodging or tenement house, hotel[,] or boardinghouse, or restaurant, until the applicant secures from the department of health and presents to the treasurer a certificate setting forth that an agent of the department has examined the [house or houses,] building or buildings, proposed to be used for such purposes, with a description thereof sufficient to identify and locate the same; and that the same are in good sanitary condition and suitable to be used for such purposes; and, if the application is for a license for a lodging or tenement house[,] or hotel[,] or boardinghouse, stating the number of persons who, by law, can be lodged therein."

SECTION 5. Section 445-95, Hawaii Revised Statutes, is amended to read as follows:

"§445-95 Conditions of license. A lodging or tenement house, hotel[,] or boardinghouse, or restaurant license shall be issued upon the following express conditions, which shall be incorporated in the license[, viz:]

- (1) [That the] The licensee shall not keep a noisy or disorderly [house;] building or buildings;
- (2) [That no] No prostitute shall be allowed to reside therein or resort thereto;
- (3) [That no] No intoxicating liquor shall be furnished or sold therein, except as authorized by law;
- (4) [That no] No more persons shall at any time be lodged therein than are permitted by the license;
- (5) [That the] The building or buildings and premises licensed shall be kept in good sanitary condition, in accordance with law and with the orders of the agent of the department of health;
- (6) [That the] The police and agents of the department shall at all times have access [thereto] for purposes of inspection; and
- (7) [That no] No gaming shall be allowed [therein]."

SECTION 6. Section 445-96, Hawaii Revised Statutes, is amended to read as follows:

"§445-96 Penalty. (a) Any person who keeps a lodging or tenement house, hotel[,] or boardinghouse, or restaurant without a license under [this chapter, or] sections 445-91, 445-92, or 445-93 as applicable shall be guilty of a misdemeanor.

(b) Any person [who,] holding a license[,] under this chapter who violates or fails to observe any of the requirements or conditions of this chapter or of [his] the license, shall be fined not less than [\$10] \$100 nor more than [\$100,] \$1,000 and the court may cancel [his] the license."

SECTION 7. Section 445-97, Hawaii Revised Statutes, is repealed.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 9. This Act shall take effect on approval.

(Approved May 13, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 150

H.B. NO. 2039-86

A Bill for an Act Relating to the Motor Vehicle Repair Industry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 437B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§437B- Aiding or abetting. Aiding or abetting an unregistered person to evade this chapter or knowingly combining or conspiring with an unregistered person, or allowing one’s registration to be used by an unregistered person, or acting as agent or partner or associate, or otherwise, of an unregistered person with the intent to evade this chapter, shall be a misdemeanor.”

SECTION 2. Section 437B-2, Hawaii Revised Statutes, is amended to read as follows:

“[] §437B-2[] Applicability of chapter. This chapter does not apply to:

- (1) Employees of the county, state, or federal governments[;] when carrying out the functions of governmental employment; or
- (2) Employees of a commercial or business enterprise who engage in the repair of motor vehicles which are owned, maintained, and operated exclusively by such commercial or business enterprise and which are not leased or rented to others; provided that [such] employees may voluntarily register pursuant to [the provisions of] this chapter.”

SECTION 3. Section 437B-9, Hawaii Revised Statutes, is amended to read as follows:

“§437B-9 Fees: application; biennial renewals; registration. (a) The fees for each application, original biennial registration, and renewal for the motor vehicle repair dealer and the motor vehicle mechanic shall be as provided in rules adopted by the department pursuant to chapter 91.

(b) Any motor vehicle repair dealer maintaining more than one motor vehicle repair facility shall separately register each repair facility and pay a fee for each facility.

(c) The renewal fee shall be paid to the board on or before June 30 of each odd-numbered year. Failure, neglect, or refusal of any registrant to pay the biennial renewal fee before the date shall constitute a forfeiture of the registration. Any registration may be restored upon written application therefor [within one year from the date] and the payment of the required fee plus an amount equal to fifty per cent thereof.

(d) Upon written request of a registrant, the board may place that person’s active registration on an inactive status. The registrant, upon payment

of the inactive registration fee, may continue inactive status for the biennial period. Failure, neglect, or refusal of any registrant on inactive status to pay the inactive registration fee shall constitute a forfeiture of the registration. The registration may be reactivated at any time during the biennial period by making written request to the board and by fulfilling all the requirements including payment of the appropriate fees."

SECTION 4. Section 437B-26, Hawaii Revised Statutes, is amended to read as follows:

"[§437B-26]] Bond required to work on [salvage,] salvaged, wrecked, or dismantled motor vehicles; forfeiture. (a) Any motor vehicle repair dealer desiring to engage in the business of restoring or rebuilding [salvage,] salvaged, wrecked, or dismantled vehicles shall submit to the board a performance bond, with corporate surety satisfactory to the board. The amount of the bond shall be not less than \$25,000 and the condition of the bond shall be the satisfactory rebuilding or restoration of [salvage,] salvaged, wrecked, or dismantled vehicles.

(b) When the board finds that a [licensee] registrant has wilfully departed from or disregarded accepted practices of workmanship with respect to work performed under section 437B-11(11), the board may, in accordance with chapter 91, order the forfeiture to the State of the performance bond submitted under subsection (a).

(c) Failure, refusal, or neglect to maintain in full force and effect a bond shall cause the automatic suspension of the registration effective as of the date of expiration or cancellation of the bond. The registration shall not be reinstated until a bond as required under this section is received by the board.

Failure to effect a reinstatement of a suspended registration within sixty days of the suspension shall cause the registration to be terminated, thereby forfeiting all registration and biennial renewal fees.

A registrant may, within fifteen calendar days after receipt of notification of the registration termination, request an administrative hearing pursuant to chapter 91 to review the termination."

SECTION 5. Section 437B-6, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 437B-18, Hawaii Revised Statutes, is repealed.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 8. This Act shall take effect upon its approval.

(Approved May 13, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Dental Hygienists.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 447, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§447- Remedies or penalties cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.”

SECTION 2. Section 447-6, Hawaii Revised Statutes, is amended to read as follows:

“§447-6 [Violating provisions,] Prohibited acts; discipline; penalty. (a) The board of dental examiners may suspend or revoke any license issued under this chapter or fine a licensee for any of the following reasons:

- (1) Professional misbehavior; or
- (2) Any other violation of this chapter or rules adopted pursuant thereto.

(b) Any person who violates any of the provisions of this chapter, or who fails to comply with any of the requirements or provisions of this chapter, penalty for which is not otherwise provided, shall be fined not [more] less than [\$100,] \$50, nor more than \$250, and each day's violation or failure to comply with the provisions hereof shall be deemed a separate [offense.] violation and shall result in a separate fine.

(c) In any proceeding for the suspension or revocation of a license, or the imposition of a fine on a licensed dental hygienist, the licensee shall be given notice and opportunity for a hearing in conformity with chapter 91.”

SECTION 3. Section 447-7, Hawaii Revised Statutes, is amended to read as follows:

“§447-7 [Suspension or] Filing of false information; revocation of license. The board of dental examiners [may, upon hearing and after ten days' notice, suspend or revoke with power to reinstate, the license of any licensed dental hygienist who, in its opinion, has violated this chapter or who, in its opinion, is guilty of professional misbehavior, or is not of good moral character.] shall refuse to grant a license to any applicant or shall revoke the license of any person who knowingly records, registers, or files, or offers for recordation, registration, or filing with the department of commerce and consumer affairs any written statement which has been falsely made, completed, or altered, or in which a false entry has been made, or which contains a false statement or false information.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 13, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 152

H.B. NO. 2054-86

A Bill for an Act Relating to the Motor Vehicle Industry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 437, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§437- Misdemeanor. Any person who is convicted of violating any provision of this chapter or rules of the board, or who engages in the business as or serves in the capacity of, or acts as a motor vehicle dealer, motor vehicle salesman, motor vehicle auction, motor vehicle auctioneer, manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative in the State or otherwise engages in business or selling or negotiating for the purchase of motor vehicles in this State without being licensed as provided in this chapter shall have committed a misdemeanor and be subject to a fine of not more than \$1,000 or imprisoned not more than one year, or both."

SECTION 2. Chapter 437, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§437- Cumulative penalties. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 3. Section 437-35, Hawaii Revised Statutes, is amended to read as follows:

"§437-35 Penalty. Any person who violates any provision of this chapter or rules [and regulations] of the board, or who engages in the business as, or serves in the capacity of, or acts as a motor vehicle dealer, motor vehicle salesman, motor vehicle auction, motor vehicle auctioneer, manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative in the State or otherwise engages in business or selling or negotiating for the purchase of motor vehicles in this State without being licensed as provided in this chapter shall be fined not more than \$1,000 [or imprisoned not more than one (1) year] and each day's violation or failure to comply shall be deemed a separate offense."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 13, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 153

H.B. NO. 2216-86

A Bill for an Act Relating to Veterinary Medicine.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 471, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated to read as follows:

"§471- Criminal penalties. Any person convicted of violating section 471-2 shall have committed a misdemeanor and be subject to a fine not to exceed \$500 or imprisoned not more than six months, or both.

Additionally, all tools, implements, appliances, medicine, and drugs used in the practice of veterinary medicine by any person convicted of practicing veterinary medicine without a license shall be declared forfeited to the State by

the court and turned over to the board for disposition as it may choose to make.”

SECTION 2. Chapter 471, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§471- Cumulative penalties. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.”

SECTION 3. Section 471-10, Hawaii Revised Statutes, is amended to read as follows:

“§471-10 Refusal to grant and revocation or suspension of license. (a) The board [of veterinary examinations] may refuse to grant, renew, reinstate or restore a license for any cause which would be ground for revocation of a license under this section. [The board may, nevertheless, renew, reinstate or restore any license when it determines that such action is just and may be done consistently with the accomplishment of the purpose of this chapter which is hereby declared to be the protection of the public in matters relating to the practice of veterinary medicine.]

(b) [Revocation and suspension.] The board may revoke or suspend the license of any veterinarian or fine the licensee, or both, for any of the following causes:

- (1) Professional misconduct, gross negligence, or manifest incapacity;
- (2) Violation of this chapter or the rules adopted pursuant thereto or any other law which applies to [him] the licensee as a practicing veterinarian;
- (3) Making any false representations or promises through advertising or otherwise [or in any manner dealing fraudulently or dishonestly in connection with the practice of veterinary medicine];
- (4) Habitual intemperance in the use of alcoholic beverages or addiction to the use of narcotic or dangerous substances;
- (5) Mental incompetence[.];
- (6) Any fraudulent, dishonest, or deceitful act in connection with the practice of veterinary medicine;
- (7) Making a false statement in any document submitted or required to be filed by this chapter;
- (8) Revocation, suspension, or other disciplinary action by another state of a license or certificate for reasons as provided in this section;
- (9) Conviction, whether by nolo contendere or otherwise, or a penal offense substantially related to the qualifications, functions, or duties of a veterinarian, notwithstanding any statutory provision to the contrary;
- (10) Violation of chapter 329, uniform controlled substance act, or any rule adopted thereto; or
- (11) Failure to report any disciplinary action taken against a licensee in another jurisdiction within thirty days after the disciplinary action becomes final.

[No license shall be suspended for longer than two years.]”

SECTION 4. Section 471-13, Hawaii Revised Statutes, is amended to read as follows:

“§471-13 [Penalties.] Violations; penalties. Any person [violating this chapter shall be fined not more than \$500, or imprisoned not more than six months, or both.] who violates or fails to comply with any provision of this chapter shall be fined not more than \$5,000 for each violation. Each day that the person is in violation of section 471-2 shall be a separate violation for the purposes of this section.

[All tools, implements, appliances, medicine, and drugs used in the practice of veterinary medicine by any person convicted of practicing veterinary medicine without a license shall be declared forfeited to the State by the court and turned over to the board of veterinary examiners for such disposition as it may choose to make.]”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved May 13, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 154

H.B. NO. 2217-86

A Bill for an Act Relating to the Motor Vehicle Industry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 437-6, Hawaii Revised Statutes, is amended to read as follows:

“§437-6 [Jurisdiction and powers] Powers and duties of the board. [Neither the motor vehicle industry licensing board nor its members shall in any way interfere with the administrative affairs of the department to which it is assigned. However, the board shall have the sole jurisdiction, power, and authority, and discretion, subject only to this chapter, to:] In addition to any other duties and powers granted by this chapter, the board shall:

- (1) [Rules and regulations. Make,] Adopt, amend, and repeal from time to time [such] rules [and regulations] not inconsistent with this chapter, as the board deems appropriate for the carrying out of the provisions and purposes of this chapter and for the efficient administration thereof, and the proper conduct of the business which are subject to this chapter, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of, or as prescribed by the board, which rules [and regulations], when promulgated and filed as provided in chapter 91, shall have the effect of law.
- (2) [Licenses.] Grant, deny, suspend, or revoke licenses which are authorized by this chapter, fine licensees and impose [such] conditions as may be set forth in the rules [and regulations] of the board in connection with the granting of licenses.
- (3) [Duplicate licenses.] Prescribe the nature of the proof to be furnished, the notices to be given, and the conditions to be met or observed for the issuance of a duplicate license in place of one

- alleged to have been lost or destroyed, including a requirement for any indemnity deemed appropriate to the case.
- (4) [Forms.] Prescribe all forms to be used for the purposes of this chapter not otherwise provided for herein.
 - [(5) Investigations, witnesses, and subpoenas.
 - (A) Investigate violations through its investigators or inspectors or otherwise, and to report such violations to the prosecuting officer for prosecution; to hear and determine verified complaints against any licensee; to subpoena and examine witnesses under oath and require the production of, and examine any of the books, papers, and records of any licensee which may pertain to his business under his license or which shall or may pertain to any matter being considered, or any hearing or investigation being conducted, by or before the board. The board may investigate any matter of which the board may take cognizance, and take testimony in the same manner as any court and neither the board nor any member shall be bound by the strict legal rules of evidence.
 - (B) The fees and mileage of witnesses shall be the same as that allowed in the circuit courts and shall be paid in the same manner as other expenses of the board.
 - (C) Depositions of witnesses residing within or without the State may be taken by the board as provided in chapter 624. In any case of disobedience to, or neglect of any such subpoena served on any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated by the board, any circuit judge of any judicial circuit wherein such disobedience, neglect, or refusal occurs, on application of the executive secretary or any person so authorized by the board may compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.
 - (D) In addition to, but not in derogation of, this section, section 92-12 shall be applicable to the board and to proceedings by or before or under the jurisdiction of the board.]
 - [(6) Minimum qualifications.] (5) Establish, by rules [and regulations], minimum qualifications for [salesmen] salespersons or dealers which must be met by applicants prior to the issuance of any license.
 - [(7) Oaths. The board shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses, the production of documentary evidence, and examination of witnesses as are possessed by a circuit court.
 - (8) Decisions of board.] (6) The exercise by the board of power, authority, and discretion in it so vested shall be final in each case and shall not be reviewable by or appealable to any court or tribunal, except as otherwise provided in chapter 91 or in this chapter."

SECTION 2. Section 437-28, Hawaii Revised Statutes, is amended to read as follows:

"§437-28 Suspension; revocation; fine; denial of issuance or renewal of a license. [(a) Investigation. The board shall upon the verified written complaint

of any person or may upon its own motion investigate the conduct of any licensee or applicant for a license under this chapter and may suspend, revoke, fine, or deny the issuance or renewal of any license issued under this chapter in the manner and for the causes provided in this chapter.

(b) Grounds for suspension, revocation, fine, or denial of issuance or renewal of a license.] (a) The board may, after notice and hearing as provided in Chapter 91, and subject to appeal to the circuit court of the circuit in which the board has jurisdiction under the procedure and rules prescribed from time to time by the laws of the State or the applicable rules of the courts pertaining to appeals to circuit courts, suspend, revoke, fine, or deny the renewal of any license, or prior to [such] notice and hearing deny the issuance of any license if it finds that the applicant or holder, or any officer, director, general manager, trustee, partner, or stockholder owning more than ten per cent interest of [such] the applicant or holder:

- (1) Has intentionally made a false statement of a material fact in [his] the application for a license or in any other statement required by this chapter or has obtained or attempted to obtain a license by fraud or misrepresentation; or
- (2) Has failed to comply, observe, or adhere to any provision of this chapter or any other law relating to the sale, taxing, or licensing of motor vehicles or any rule[, regulation,] or order made pursuant to this chapter; or
- (3) Has committed a fraudulent act in selling, purchasing, or otherwise dealing in motor vehicles or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of a motor vehicle or any interest therein including an option to purchase [such] motor vehicles; or
- (4) Has engaged in [his] business under a past or present license issued pursuant to this chapter, in [such] a manner as to cause injury to the public or to those with whom [he] one is dealing; or
- (5) Has failed to comply, observe, or adhere to any law in any other respect on account whereof the board may deem [him] the applicant or holder to be an unfit or improper person to hold a license; or
- (6) Has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license; or
- (7) Is insolvent or has filed or is the subject of petition for bankruptcy, wage earner's plan, or financial reorganization plan; or has made or proposes to make an assignment for benefit of creditors; or
- (8) In the case of an individual applicant or holder of a license, is not at least eighteen years of age; in the case of a partnership applicant or holder of a license, if any general or limited partner thereof is not at least eighteen years of age; or
- (9) Has charged more than the legal rate of interest on the sale or purchase or attempted sale or purchase or in arranging the sale or purchase of a motor vehicle or any interest therein including an option to purchase; or
- (10) Has violated any of the laws pertaining to false advertising or to retail installment sales in the offering, soliciting, selling, or purchasing, or arranging to sell or purchase a motor vehicle or any interest therein; or
- (11) Has wilfully failed or refused to perform any unequivocal and indisputable obligation under any written agreement involving the

- sale or purchase of a motor vehicle or any interest therein including an option to purchase; or
- (12) Has been denied the issuance of a license under this chapter for substantial culpable cause or for having had a license issued under this chapter suspended, revoked, or the renewal thereof denied for substantial culpable cause; or
 - (13) Has entered or has attempted to enter or proposes to enter into any contract or agreement contrary to this chapter or any rule [or regulation] adopted thereunder; or
 - (14) Has been or is engaged or proposes to engage in the business of selling new motor vehicles as a dealer or auction without a proper franchise therefor; or
 - (15) Has at any time employed or utilized or attempted or proposed to employ or utilize any person not licensed under this chapter who is required to be so licensed; or
 - (16) Has entered or attempted to enter any one-payment contract, where the contract is required to be signed by the purchaser prior to removal of the motor vehicle for test driving from the seller's premises; or
 - (17) Being a [salesman] salesperson or dealer:
 - (A) Has required a purchaser of motor vehicles as a condition of sale and delivery thereof to purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser; provided that this prohibition shall not apply as to special features, appliances, accessories, or equipment which are ordinarily installed on the vehicle when received or acquired by the dealer; or
 - (B) Has represented and sold as an unused motor vehicle any motor vehicle which has been operated as a demonstrator, leased, or U-drive motor vehicle; or
 - (C) Has sold a new motor vehicle without providing or securing for the purchaser the standard factory new car warranty for the vehicle, unless the dealer or [salesman] salesperson clearly notes in writing on the sales contract that the new motor vehicle is sold without the standard factory warranty; or
 - (D) Has engaged in any improper business conduct; or
 - (18) Being an applicant or holder of a dealer's license:
 - (A) Has sold or proposed to sell new motor vehicles without providing for the maintenance of a reasonable inventory of parts for [such] new vehicles or without providing and maintaining adequate repair facilities and personnel for [such] new vehicles at either the main licensed premises or at any branch location; or
 - (B) Has employed or proposed to employ any [salesman] salesperson who is not duly licensed under this chapter; or
 - (C) Has sold or proposed to sell new motor vehicles without being franchised therefor; or
 - (19) Being an applicant or holder of an auction's license:
 - (A) Has employed or proposed to employ any auctioneer who is not licensed under this chapter; or
 - (B) Has sold or proposed to sell new motor vehicles without being franchised therefor; or
 - (20) Being an applicant for a [salesman's] salesperson's license:

- (A) Does not intend to be employed as a [salesman] salesperson for a licensed motor vehicle dealer; or
 - (B) Does not intend to be employed as a [salesman] salesperson as [his] the principal occupation; or
 - (C) Intends to be employed as a [salesman] salesperson for more than one dealer; or
- (21) Being a motor vehicle auctioneer, does not intend to be employed as such by a licensed auction under this chapter; or
- (22) Being a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative:
- (A) Has attempted to coerce or has coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with [such] the dealer, by threatening to cancel the franchise agreement or by threatening to refuse, at the expiration of the current franchise agreement, to enter a new franchise agreement with [such] the dealer; or
 - (B) Has attempted to coerce or coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with [such] the dealer, by awarding or threatening to award a franchise to another person for the sale of the same make of any motor vehicle in the same sales area of responsibility covered by the existing franchise agreement of the dealer; or
 - (C) Has attempted to or has canceled or failed to renew the franchise agreement of any dealer in this State without good faith, as defined herein. Upon [such] the cancellation or failure to renew the franchise agreement, the party canceling or failing to renew the franchise agreement shall, at the dealer's option, either compensate the dealer at the fair market going business value for the dealer's capital investment, which shall include but not be limited to the going business value of the business, goodwill, property, and improvement owned or leased by the dealer for the purpose of the franchise, inventory of parts, and motor vehicles possessed by the dealer in connection with the franchise, plus reasonable attorney's fees incurred in collecting [such] compensation; provided [such] that the investment shall have been made with reasonable and prudent judgment for the purpose of the franchise agreement; or compensate the dealer for [his] damages including attorney's fees as aforesaid, resulting from the cancellation or failure to renew the franchise agreement. As used herein, "good faith" means the duty of each party to any franchise agreement fully to comply with that agreement, or to act in a fair and equitable manner towards each other; or

- (D) Has delayed delivery of or refused to deliver without cause, any new motor vehicle to a dealer, franchised to sell the new motor vehicle, within a reasonable time after receipt of a written order for the vehicle from the dealer. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a dealer who has not received delivery thereof, but who had placed [his] the written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle without cause. The nondelivery of a new motor vehicle to a dealer within sixty days after receipt of a written order for the vehicle from a dealer shall also be prima facie evidence of delayed delivery of, or refusal to deliver, a new motor vehicle without cause; provided that the delayed delivery of, or refusal to deliver, a motor vehicle shall be deemed with cause if the manufacturer establishes that the delay or refusal to deliver is due to a shortage or curtailment of material, labor, transportation, utility service, labor,¹ or production difficulty, or other similar cause beyond the reasonable control of the manufacturer; or
- (E) Has discriminated against any of their franchised dealers in this State by directly or indirectly charging [such] the dealer more for a new motor vehicle or services, parts, or accessories [therefor] or a higher rate of transportation for transporting [such] the vehicle from the manufacturing or assembly plant to [such] the dealer or any portion of [such] the distance, than is charged to any other of their franchised dealers in other states for the same make, model, and year of a new motor vehicle or for the same services, parts, or accessories [therefor] or for similar transportation for [such] the vehicle during the same period. A manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative who provides or causes to be provided greater transportation benefits for a new motor vehicle as aforesaid to any of their franchised dealers in other states than is provided to any of their franchised dealers in this State for the same or lesser price or charge than that imposed upon [such] the franchised dealer in this State during the same period is deemed to have so discriminated against [such] the franchised dealer in this State. Evidence of similar discriminatory practice against franchised dealers in other states shall not constitute a defense to or justification of the commission of [such] the discriminatory act against the franchised dealer in this State. The intent and purpose of this subparagraph is to eliminate inequitable pricing policies set by manufacturers, factory branches, factory representatives, distributors, distributor branches, or distributor representatives which result in higher prices of new motor vehicles to the consumer in this State. This subparagraph shall be liberally interpreted to effect [such] the intent and purpose and in the application thereof, the substance and effect and not the form of the acts and transactions shall be primarily considered in determining

whether a discriminatory act has been committed. Nothing contained in this subparagraph (E) shall prohibit establishing delivered prices or destination charges to dealers in this State which reasonably reflect the seller's total transportation costs incurred in the manufacture or delivery of [such] products to [such] the dealers, including costs which are related to the geographical distances[,] and modes [and cost] of transportation involved in shipments to this State, or which meet those lower prices established by competitors; or

(F) Has required a dealer of new motor vehicles in this State as a condition of sale and delivery of new motor vehicles to purchase special features, appliances, accessories, or equipment not desired or requested by [such] the dealer; provided that this prohibition shall not apply to special features, appliances, accessories, or equipment, except heaters, which are regularly installed on that particular model of new motor vehicles as "standard" equipment or to special features, appliances, accessories, or equipment which are an integral part of [such] the new motor vehicles and cannot be removed therefrom without substantial expense; or

(G) Has failed to adequately and fairly compensate its dealers for labor, parts, and other expenses incurred by [such] the dealer to perform under and comply with manufacturer's warranty agreements. In no event shall any manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative pay its dealers a labor rate per hour for warranty work that is less than that charged by the dealer to the retail customers of the dealer nor shall [such] the rates be more than the retail rates. All claims made by dealers for compensation for delivery, preparation, and warranty work shall be paid within thirty days after approval and shall be approved or disapproved within thirty days after receipt. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval.

[(c) Suspension pending hearing.] (b) Upon finding by the board or by the director of commerce and consumer affairs that a licensee is engaging within this State in activities which involve (1) an immediate and unreasonable threat to personal safety or (2) fraud or misrepresentation upon customers, and that, for the protection of the public from the possible consequences of [such] practices, the business of the licensee should be immediately suspended, the board or the director may order the summary suspension of the license for a period not to exceed five days, pending a hearing by the board on the charges involving [such] the practices. The order of suspension shall be served upon the licensee at the same time as the notice of hearing upon [such] the charges, which hearing shall be scheduled prior to the expiration of the order of suspension. The period of suspension prior to the hearing cannot be extended except upon request of the licensee for a reasonable continuance adequately to prepare [his] a defense.

Any attempt of the licensee to continue [his] the business or occupation while [his] the license is so suspended shall of itself be sufficient to warrant a permanent revocation of [his] the license and shall also subject [him] the licensee to all the penalties prescribed by this chapter for violations. For [such] disregard of an order suspending [his] the license, the board may summarily take

possession of and impound all motor vehicles belonging to or in the possession of the licensee whether or not the vehicles are situated upon the licensed premises, pending final action in this case or may, without taking possession of [such] the motor vehicles, render them unusable; provided[,] that the right of the board to take any [such] action and any liens for towing or storage or otherwise arising from [such] the action are subject to and subordinate to any security interest which has attached to [such] the motor vehicles prior thereto, and the board shall prior to taking any [such] action give notice thereof to any secured party whose security interest in [such] the motor vehicles is known to the board or who, prior to any [such] action by the board, had filed a financing statement covering [such] the motor vehicles or had noted [his] the lien on the legal ownership certificates thereof.

[(d) Fines.] (c) Any fine imposed by the board after a hearing in accordance with chapter 91 shall be no less than \$100 nor no more than \$1,000 for each violation.

[(e) Restitution.] (d) In lieu of or in addition to the fine imposed under this section, the board may require the motor vehicle dealer to make restitution to the customer. Restitution may be imposed in lieu of a fine even though the amount may exceed the fine set forth in subsection [(d).] (c).”

SECTION 3. Section 437-30, Hawaii Revised Statutes, is amended to read as follows:

“§437-30 Judicial review by circuit court. [(a) Judicial review of the records.] Any person aggrieved by a final decision and order of the [motor vehicle industry licensing] board in a “contested case”, as defined in chapter 91, is entitled to judicial review thereof by the circuit court of the circuit in which the board making [such] the final decision and order has jurisdiction. The review shall be as provided by chapter 91. It shall be conducted by the court without a jury and shall be confined to the record.

[(b) Record of board’s proceedings. The board shall keep a record of its hearings or proceedings in a “contested case” either stenographically or by machine and shall provide a transcript of the hearings or proceedings to a licensee upon his request and at his expense.]”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 13, 1986.)

Note

1. Comma should be underscored.

ACT 155

S.B. NO. 592

A Bill for an Act Relating to Limiting Commercial Exploitation of Crime.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 351, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

“PART VI. LIMITING COMMERCIAL EXPLOITATION OF CRIME

§351-81 Deposit of copy of contract upon indictment or charge of criminal offense. Every person, firm, corporation, partnership, association, or other legal entity upon entering into a contract with any person indicted or charged with a criminal offense committed in this State or a representative or assignee of any such person, shall submit a copy of the contract to the commission if:

- (1) The contract provides for monetary compensation payable to the person indicted or charged or payable at the person's direction; and
- (2) The subject matter of the contract is the reenactment of the crime, or the expression of the thoughts, feelings, opinions, or emotions of the person about the criminal offense for which the person is indicted or charged which is to be reflected in a movie, book, article, radio or television program, or other form of communication.

§351-82 Effect of conviction upon contract; deposit of monetary compensation with the criminal injuries compensation commission. If the person indicted or charged is subsequently convicted, the person, firm, corporation, partnership, association, or other legal entity which entered into a contract of the type identified in section 351-81 shall:

- (1) Deposit fifty per cent of the monetary compensation paid under such contract into a collection account established by the commission pursuant to section 351-83 and deposit the other fifty per cent of such monetary compensation in a special account established by the commission pursuant to section 351-84 if a timely appeal from the conviction is filed and the contract provides that monetary compensation is payable to the convicted person; or
- (2) Deposit all monetary compensation paid under such contract with the commission to a special account established pursuant to section 351-84, if a timely appeal from the conviction is:
 - (A) Filed and the contract provides that the monetary compensation is payable to a person other than the convicted person;
 - (B) Filed, the conviction is affirmed on appeal, and no further appellate action is allowed; or
 - (C) Not filed.

§351-83 Collection account, creation, disbursements. Monetary compensation received by the commission pursuant to section 351-82(1) shall be deposited into a collection account established by the commission. The moneys deposited into the collection account including interest earned shall be used exclusively to pay the expenses of legal representation incurred by the convicted person in prosecuting an appeal of the conviction. Upon the presentation of a verified statement of attorney's fees and expenses, the commission shall pay such attorney's fees and expenses reasonably and necessarily incurred in prosecuting the appeal.

If the monetary compensation deposited into the collection account pursuant to section 351-82(1) is not sufficient to prosecute the convicted person's appeal, or if the convicted person seeks other judicial relief in order to void the conviction or to obtain release from incarceration, then the convicted person may obtain a court order compelling the commission either to pay the sum necessary for adequate legal representation out of the funds deposited in the special account pursuant to section 351-82(2) or to deposit into the collection

account a percentage greater than fifty per cent of the monetary compensation payable to the convicted person.

§351-84 Special account, creation, disbursements. (a) Monetary compensation received by the commission pursuant to section 351-82(2) shall be deposited into a special account established by the commission. The moneys deposited into the special account including interest earned shall be retained or disbursed by the commission pursuant to this section.

(b) Moneys deposited into the special account shall be used first as provided in section 351-83, if necessary, and then to reimburse the criminal injuries compensation fund for payments made pursuant to this chapter for the crime committed by the convicted person.

(c) Moneys remaining after disbursement under subsection (b) shall be disbursed to a judgment creditor, for the purpose of satisfying a judgment, moneys from the special account if:

- (1) The judgment creditor is a victim, a victim's representative, or other person specified in section 351-31, or a person who is not specified in section 351-31 but is the victim of a crime subject to this part;
- (2) The judgment is for the damages arising out of the criminal act of the convicted person;
- (3) A certified copy of the judgment is presented to the commission; and
- (4) There is no order staying the judgment or enjoining disbursement.

Judgment creditors shall be paid out of the special account in the order in which certified copies of the judgments are presented to the commission.

§351-85 Collection, special accounts to be interest bearing. All moneys deposited into the collection account or special account under this part shall be deposited into federally-insured interest-bearing accounts.

§351-86 Money deposited not subject to execution, levy, attachment, or lien. All moneys received by the commission pursuant to this part shall not be subject to execution, levy, attachment, or lien of any kind.

§351-87 Lien in favor of State. The failure of any person, firm, corporation, partnership, association, or legal entity to pay moneys over to the commission in accordance with this part shall create a debt owing to the commission from that person, firm, corporation, partnership, association, or legal entity and shall constitute a preferential lien in favor of the State which may be collected by the commission by civil process.

§351-87¹ Part not applicable; return of moneys held. This part shall not apply and shall have no effect where:

- (1) The conviction is reversed or overturned; or
- (2) The applicable statute of limitations for a civil action which may be filed by a victim, a victim's representative, or a person specified in section 351-31 relating to the criminal act committed by the convicted person has expired, and there are no such civil actions pending and ten years have elapsed since the date of the last judgment obtained by a victim, a victim's representative, or a person specified in section 351-31.

Under the circumstances set forth in paragraph (1) or (2), all moneys held by the commission in a collection account or special account, including interest, shall be disbursed to the convicted person or any other person legally entitled to receive the disbursement."

ACT 156

SECTION 2. Section 831-3, Hawaii Revised Statutes, is amended to read as follows:

“§831-3 Rights retained by convicted person. Except as otherwise provided by this chapter[,] and chapter 351, part VI, a person convicted of a crime does not suffer civil death or corruption of blood or sustain loss of civil rights or forfeiture of estate or property, but retains all of his rights, political, personal, civil, and otherwise, including the right to hold public office or employment, to vote, to hold, receive, and transfer property, to enter into contracts, to sue and be sued, and to hold offices of private trust in accordance with law.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 14, 1986.)

Note

1. So in original.

ACT 156

S.B. NO. 425

A Bill for an Act Relating to Public Officers and Employees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 89-9, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The employer and the exclusive representative shall meet at reasonable times, including meetings in advance of the employer’s budget-making process, and shall negotiate in good faith with respect to wages, hours, the number of incremental and longevity steps and movement between steps within the salary range, the amounts of contributions by the State and respective counties to the Hawaii public employees health fund to the extent allowed in subsection (e), and other terms and conditions of employment which are subject to negotiations under this chapter and which are to be embodied in a written agreement, or any question arising thereunder, but such obligation does not compel either party to agree to a proposal or make a concession.”

2. By amending subsection (d) to read:

“(d) Excluded from the subjects of negotiations are matters of classification and reclassification, benefits of but not contributions to the Hawaii public employees health fund, retirement benefits, and the salary ranges [and the number of incremental and longevity steps] now provided by law; provided that the number of incremental and longevity steps [in accordance with section 77-13.5], the amount of wages to be paid in each range and step, and [the length of service necessary for the incremental and longevity steps] movement between steps within the salary range shall be negotiable. [Effective July 1, 1976, an employee shall not be entitled to his normal annual increment or longevity increase, as the case may be, in any fiscal year that a negotiated pay increase is effected, whether by statute or agreement, and no part of such a fiscal year shall be counted as service creditable for any future increment or longevity pay increase.] The employer and the exclusive representative shall not agree to any

proposal which would be inconsistent with merit principles or the principle of equal pay for equal work pursuant to sections 76-1, 76-2, 77-31, and 77-33, [which would be inconsistent with section 77-13.5, relating to the conversion to appropriate salary ranges,] or which would interfere with the rights of a public employer to (1) direct employees; (2) determine qualification, standards for work, the nature and contents of examinations, hire, promote, transfer, assign, and retain employees in positions and suspend, demote, discharge, or take other disciplinary action against employees for proper cause; (3) relieve an employee from duties because of lack of work or other legitimate reason; (4) maintain efficiency of government operations; (5) determine methods, means, and personnel by which the employer's operations are to be conducted; and take such actions as may be necessary to carry out the missions of the employer in cases of emergencies."

SECTION 2. Section 77-12, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 77-13.5, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 297-33.5, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved May 14, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 157

S.B. NO. 2166-86

A Bill for an Act Relating to a Job Evaluation Study.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to establish in the State a public policy to achieve an equitable relationship between the value of work performed by state and county civil service employees and their salary or wage schedules. To carry out this purpose, this Act authorizes the hiring of a consultant to conduct a study: (1) to determine whether or not pay inequity exists among specific public employee job classes that are dominated by one sex, (2) to determine what factors or conditions contribute to such inequity if such inequity exists, and (3) to determine what changes in law or practice could optimally achieve fairness in job evaluation.

SECTION 2. Definitions. As used in this Act, unless the context clearly requires otherwise:

"Comparability of value" means the value of work as measured by the needs of the public employer and the knowledge, composite skill, effort, responsibility, and working conditions required in the performance of that work.

"Employer" means the State of Hawaii, city and county of Honolulu and the counties of Hawaii, Maui, and Kauai.

"Female-dominated class" means any occupational class in which seventy per cent or more of the incumbents are female.

“Job evaluation” means a method of determining systematically and fairly the value of a job for setting rank and hence salary.

“Male-dominated class” means any occupational class in which seventy per cent or more of the incumbents are male.

“Nonsupervisory employees in white collar positions” means all positions provided for by paragraph 89-6(a)(3).

“Professional and scientific employees other than registered professional nurses” means all positions as provided for by paragraph 89-6(a)(13).

“Registered professional nurses” means all positions as provided for by paragraph 89-6(a)(9).

“Supervisory employees in white collar positions” means all positions as provided for by paragraph 89-6(a)(4).

SECTION 3. This Act applies to all nonsupervisory and supervisory white collar and professional and scientific positions, including registered professional nurse positions, which are covered by the position classification plan as provided for by chapter 76 and the compensation plans as provided for by chapter 77.

SECTION 4. The legislative auditor, in consultation with the exclusive employee representative and the director of personnel services, shall develop a request for proposal (RFP) for the requisite study. The RFP shall be sent to nationally prominent individuals and/or companies experienced in conducting job evaluation studies. The RFP shall require that proposals submitted include, but not be limited to, a statement of the qualifications of the consultant, including experience in conducting job evaluation studies, description of the methodology the consultant proposes to use in conducting the job evaluation study in conforming with section 5 of this Act, and a commitment to complete the study and submit a final report in conformance with section 6 of this Act.

SECTION 5. The study to develop a new job evaluation system shall be undertaken only if the consultant’s reported findings are deemed by the legislature to warrant the development of such a system.

The consultant shall conduct the study under the following guidelines:

- (1) A study be made of the existing system and laws that affect all civil service employees compensation.
- (2) The employers shall provide a list of all female- and male-dominated classes within the state and county governments (70 per cent as a measure of dominance).
- (3) A study be made of female- and male-dominated classes which can be reasonably compared to determine if sex-based wage inequity exists.
- (4) If it appears that sex-based wage inequity exists, make recommendations for prospective corrective actions to the 1987 legislature, which may include changes in the area of wage negotiations and arbitration awards on wages.
- (5) After completion of the study, the consultant will submit a report to the 1987 legislature on its findings and, if it is found that sex-based wage differences exist, propose a job evaluation system that will assure the elimination of such inequity.

SECTION 6. The legislative auditor, in consultation with the exclusive employee representative and the director of personnel services, shall monitor the progress of the consultant and provide administrative support necessary to assist

the consultant in conducting the study, including the exercise of the auditor's powers under section 23-5.

SECTION 7. The consultant shall submit an interim report, or a final report if possible, to the legislature no later than twenty days prior to the convening of the Regular Session of 1987 and, if necessary, a final report no later than twenty days prior to the convening of the Regular Session of 1988.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000, or so much thereof as may be necessary for fiscal year 1986-87, to carry out the purposes of this Act, including administrative costs incurred by the office of the legislative auditor.

SECTION 9. The sum appropriated shall be expended by the office of the legislative auditor for the purposes of this Act.

SECTION 10. This Act shall take effect upon its approval.

(Approved May 14, 1986.)

ACT 158

S.B. NO. 2290-86

A Bill for an Act Relating to Guardians and Trustees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 551A-2, Hawaii Revised Statutes, is amended as follows:

1. Subsection (a) is amended to read:

“(a) The public guardian shall serve as guardian, limited guardian, testamentary guardian, or temporary guardian of the person of an incapacitated person when so appointed by the family court under chapter 560. The public guardian may file a petition for the public guardian's own appointment. Petitions for public guardianship may also be filed by any person, agency, or facility responsible for the support or care of individuals who:

(1) Are not able to understand or adequately participate in decisions concerning their care; and

(2) Have no relatives or friends willing and able to act as a guardian.”

2. Subsection (b) is amended to read:

“(b) The public guardian shall have the same powers and duties as a private guardian.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 14, 1986.)

ACT 159

S.B. NO. 2303-86

A Bill for an Act Relating to a Tourism Impact Management System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to establish a system for the continuous monitoring of the impact of tourism on the economic, social, and

physical environment of the residents of Hawaii. While it is recognized that tourism development and activities are of crucial importance and have resulted in significant economic benefits, it must also be recognized that in order for tourism to continue to thrive, it must have the support of Hawaii's residents and their concerns about the negative effects of tourism must be addressed. The tourism impact management system established in the department of planning and economic development by this Act is intended to be responsive to the concerns of residents by identifying those conditions relating to tourism which have negative effects on residents and providing a mechanism through which solutions may be sought.

SECTION 2. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§201- Tourism impact management system. The director shall establish a system to:

- (1) Monitor the impact of tourism development and activities on the economic, social, and physical environment of the residents of Hawaii;
- (2) Identify those current and emerging conditions which are having or are likely to have negative effects on residents;
- (3) Survey and analyze the specific concerns of communities with high tourism impact;
- (4) Inform appropriate public officials and private parties of the negative effects;
- (5) Advocate, on behalf of residents and whenever possible, solutions to ameliorate, avoid, or prevent the undesirable effects; and
- (6) Bring major tourism impact issues to the attention of appropriate legislative bodies.

The director shall publish an annual report which describes the system's application in the preceding year, including the conditions and negative effects identified, the solutions recommended or pursued by responsible agencies or parties, and the results obtained.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 1986-87, to carry out the purposes of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the department of planning and economic development.

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 14, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 160

S.B. NO. 2478-86

A Bill for an Act Relating to Emergency Assistance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§346- Child abuse and neglect discretionary emergency assistance. (a) The department may grant funds to a family for child abuse and neglect discretionary emergency assistance in accordance with this section. The purpose of these grants is to assist families when an emergency situation arises or is imminent which may cause child abuse or neglect, and the financial assistance may prevent the abuse or neglect or prevent the removal of a child from a family.

(b) Emergency assistance shall be authorized when:

- (1) A situation arises or is imminent which presents an immediate or imminent threat of child abuse or neglect;
- (2) The family is eligible for public assistance or has no available financial resources;
- (3) Financial assistance may eliminate or alleviate the situation and remove the immediate or imminent threat of child abuse or neglect; and
- (4) No other financial resources are available from within the family or from other public or private source which could be used to eliminate or alleviate the situation.

(c) Emergency assistance may be used for shelter, utilities, food, repairs, essential equipment, and other goods or services which in the discretion of the department are necessary to eliminate or alleviate the emergency situation.

(d) A family shall not be granted more than \$250 in emergency assistance during one fiscal year; except that under an exceptional situation as determined by the director, a family may be granted not more than \$600 during one fiscal year.

(e) For the purposes of this chapter only, emergency assistance shall not be considered income to the head of household or family nor as part of the family's basic needs allowance.”

SECTION 2. Section 40-85, Hawaii Revised Statutes, is amended to read as follows:

“[[§40-85[]] Imprest fund for immediate welfare payments[.], emergency assistance funds. (a) In addition to the petty cash funds authorized by section 40-84[,], and emergency assistance funds under subsection (b), and upon approval by the comptroller, the amount necessary and sufficient to enable the department of social services and housing to make immediate welfare money payments to eligible recipients shall be advanced from the general fund of the State to be used by the department of social services and housing on an imprest basis in those cases only which require more immediate payment than that possible under the usual procedure for disbursing state funds provided in section 40-51. In granting approval, the comptroller may impose such conditions as he may deem necessary for the proper administration and accountability of the fund.

The welfare imprest fund shall be replenished at the end of each quarter and may be replenished at other times as required by the usage of the fund. In no case, however, may welfare disbursements, from the welfare imprest fund and under the usual procedure for disbursing state funds, exceed the amounts appropriated and allotted for a fiscal period.

(b) Amounts necessary and sufficient to enable the department of social services and housing to make immediate emergency assistance grants shall be advanced from the general fund of the State to be used by the department as

provided under section 346-. The comptroller may impose conditions as deemed necessary for the proper administration and accountability of the funds advanced.

Emergency assistance funds shall be replenished at the end of each quarter and may be replenished at other times as required by the usage of the funds; provided that the amount advanced or expended in a fiscal period shall not exceed the amount appropriated and allotted for that fiscal period."

SECTION 3. Section 346-1, Hawaii Revised Statutes, is amended by amending the definition of "financial assistance" to read as follows:

"Financial assistance" means public assistance, except for payments for medical care, social service payments, [and] transportation assistance, and emergency assistance under section 346-, including funds received from the federal government."

SECTION 4. Section 346-29, Hawaii Revised Statutes, is amended to read as follows:

"§346-29 Applications for public assistance; manner, form, conditions. Applications for public assistance under this chapter shall be made by the applicant, or by someone acting in the applicant's behalf, in the manner, place, and form prescribed by the department.

No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a standard above that provided in this chapter, or who is an inmate of any public institution as long as the Social Security Act precludes the use of federal funds to provide public assistance to an inmate of such an institution, but an inmate of such an institution mentioned in this section may apply for assistance to begin after the inmate's discharge from the institution. In determining the needs of an applicant or recipient for public assistance by the department, the department:

- (1) Shall disregard such amounts of earned or unearned income and resources as required by the Social Security Act or other federal acts, to receive federal matching funds and may disregard such additional amounts as these acts permit, now or in the future, to be disregarded.
- (2) Shall consider as net income in all cases such income as the Social Security Act or other federal acts may require the department to consider for receipt of federal matching funds and may consider such additional income and resources as these acts may permit, now or in the future, to be considered.
- (3) Shall disregard a total in liquid assets equal to the maximum possible financial assistance by family size multiplied by a factor of 1.5 and rounded to the nearest \$5 in determining the needs of persons for financial assistance; provided that the amount to be disregarded, shall not exceed standards under federally funded financial assistance programs. This provision shall apply to the general assistance program but shall not apply to persons eligible for federal supplemental security income benefits. In determining the needs of such persons, the department shall apply the eligibility requirements under the federal supplemental security income program.
- (4) Shall disregard a total of at least \$1,500 in liquid assets in determining the needs of a single person for medical assistance only.

- (5) Shall disregard a total of at least \$2,250 in liquid assets in determining the needs of a family of two persons for medical assistance only and an additional \$250 for each additional person included in an application for medical assistance only.
- (6) Shall disregard amounts of emergency assistance granted under section 346-

In determining eligibility for medical assistance, the department shall require from all applicants and recipients the assignment of any benefits due to a third party liability. Any rights or amounts so assigned shall be applied against the cost of medical care paid under this chapter.

The director shall adopt rules pursuant to chapter 91 defining "liquid assets" and to determine eligibility for medical assistance; provided that the cash surrender value of life insurance policies owned by persons included in an application shall be treated as liquid assets."

SECTION 5. Section 346-34, Hawaii Revised Statutes, is amended to read as follows:

"§346-34 Frauds, penalties. Any recipient who buys or disposes of real property or any person who knowingly aids or abets a recipient in the purchase or sale of real property without the consent of the department of social services and housing shall be guilty of fraud.

If, at any time while the recipient of public assistance is receiving such assistance, his living requirements are reduced and he wilfully fails to report the reduction within thirty days from the date of the reduction to the department, or he acquires from any source real property, funds, income, or other resources and wilfully fails to report the amount of same together with the source of the resources to the department within thirty days of receipt of same, or prior to spending or otherwise disposing of all or any portion of the same, he shall be guilty of fraud and be subject to the penalties provided by this section.

No person shall knowingly obtain or attempt to obtain, or aid or abet another person in obtaining or attempting to obtain, any food commodity under a food distribution program or any food stamp or coupon under a food stamp plan, to which he or the other person is not entitled to receive or use under any law, or under any rule [or regulation promulgated] adopted pursuant to section 346-14(9) or chapter 91.

No person shall knowingly give, sell, trade, or otherwise dispose of to another person not entitled to receive or use the same pursuant to any law, or pursuant to any rule [or regulation promulgated] adopted pursuant to section 346-14(9) or chapter 91:

- (1) Any food commodity received under a food distribution program;
- (2) Any food stamp or coupon received under a food stamp plan; or
- (3) Any food commodity received wholly or partially in exchange for a food stamp or coupon received under a food stamp plan.

No person shall knowingly obtain or attempt to obtain emergency assistance under section 346- to which the person is not entitled. No person shall knowingly aid or abet another person in obtaining or attempting to obtain emergency assistance to which that other person is not entitled. No person shall expend emergency assistance granted to the person for other than the purpose approved by the department to eliminate or alleviate the emergency situation.

Any person convicted under this section shall be guilty of a misdemeanor. Any portion of assistance obtained by any fraudulent device, and any assistance paid after receipt of resources which have not been reported to the department as herein required shall be recoverable by the State for the use of the

department as a debt due the State, or, restitution of the amount may be ordered by the court following conviction.

The term "recipient" includes any person to whom a grant of public assistance is made by direct payment, and any person for whose use and benefit a grant of public assistance is made by payment to a relative or other person. Prosecution under this section shall not be considered an exclusive remedy but shall be in addition to any other criminal, civil, or administrative remedy or sanction authorized by law."

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$20,000, or so much thereof as may be necessary for fiscal year 1986-1987, for the child abuse and neglect discretionary emergency assistance program. The sum appropriated shall be expended by the department of social services and housing for the purposes of this Act.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 8. This Act shall take effect on July 1, 1986.

(Approved May 14, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 161

H.B. NO. 172

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 325, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . SEXUALLY TRANSMITTED DISEASES

§325- Confidentiality of records and information. All information and records containing any information which identifies any person who has or may have any condition related to a sexually transmitted disease which is required to be reported under this chapter and which are held or maintained by any state agency, health care provider or facility, physician, laboratory, clinic, blood bank, third party payor, or any other agency, individual, or organization in the State shall be strictly confidential. Such information shall not be released or made public upon subpoena or any other method of discovery except under the following circumstances:

- (1) Release is made of specific medical or epidemiological information for statistical purposes in such a way that no person can be identified;
- (2) Release is made of specific medical or epidemiological information with the written consent of the person or persons identified in the information released;
- (3) Release is made of medical or epidemiological information to medical personnel in a medical emergency only to the extent necessary to protect the health, life, or well-being of the named party;

- (4) Release is necessary to protect the health and well-being of the general public; provided that release is made in such a way that no person can be identified;
- (5) Release is made of medical or epidemiological information to medical personnel, appropriate state agencies, or county or district courts to enforce the provisions of this part and related rules concerning the control and treatment of sexually communicable diseases; or
- (6) Release is made for the purpose of enforcing the provisions of chapter 350.

For the purpose of this part, the term "medical emergency" means any disease-related situation which threatens life or limb, and the term "medical personnel" means any health care provider, as provided in section 323D-2, in the State, who deals directly or indirectly with the identified patient or the patient's contacts, and includes hospital emergency room personnel, the staff of the communicable disease division of the department of health, and any other department personnel as designated by the director.

§325- Civil penalty. Any person or institution who willfully violates any provision of this part shall be fined not less than \$1,000 nor more than \$10,000 plus court costs as determined by the court, which penalty and costs shall be paid to the person or persons whose records were released.

§325- Custodian of records. No officer or employee of the department of health shall be examined in any civil, criminal, special, or other proceeding as to the existence or content of any individual's records retained by the department pursuant to this part, or as to the existence or contents of such reports received from any private physician or private health facility, without written consent of the affected individual.

§325- Responsibility to report. Notwithstanding any other law to the contrary, no provision in this part shall be construed so as to diminish, limit, or eliminate the responsibility of any person to report sexually transmitted diseases to the proper authorities."

SECTION 2. This Act shall take effect on July 1, 1986.

(Approved May 14, 1986.)

ACT 162

H.B. NO. 1672-86

A Bill for an Act Relating to Unemployment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 383-1, Hawaii Revised Statutes, is amended to read as follows:

"§383-1 Definitions, generally. As used in this chapter, unless the context clearly requires otherwise:

"American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.

[(1)] "Base period," with respect to benefit years beginning after June 30, 1951, means the four completed calendar quarters immediately preceding the first day of an individual's benefit year.

[(2)] "Benefits" means the money payments payable to an individual, as provided in this chapter, with respect to [his] the individual's unemployment.

[(3)] "Benefit year" with respect to any individual means the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of [his] the individual's last preceding benefit year. Any claim for benefits made in accordance with section 383-32 shall be deemed a "valid claim" for the purpose of this paragraph if the individual has satisfied the conditions required under section [383-29(5).] 383-29(a)(5). Nothing in sections 383-29 and 383-30, except [subsection 383-29(5).] section 383-29(a)(5), shall affect the filing of a "valid claim" or the establishment of a "benefit year". For the purposes of this paragraph a week with respect to which an individual files a valid claim shall be deemed to be "in", "within", or "during" that benefit year which includes the greater part of such week.

[(4)] "Department" means the department of labor and industrial relations.

[(5)] "Calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof, as the department may by [regulation] rule prescribe.

[(6)] "Director" means the director of labor and industrial relations of the State.

[(7)] "Contributions" means the money payments required by this chapter to be made into the state unemployment compensation fund by any employing unit on account of having individuals in its employ.

"Department" means the department of labor and industrial relations.

"Director" means the director of labor and industrial relations of the State.

"Employer" means:

(1) Any employing unit which for some portion of a day within the current calendar year has or had in employment one or more individuals; and

(2) For the effective period of its election pursuant to section 383-77, any other employing unit which has elected to become subject to this chapter.

[(8)] "Employing unit" means any individual or type of organization, including the State, any of its political subdivisions, any instrumentality of the State or its political subdivisions, any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or successor of any of the foregoing, or the legal representative of a deceased person, which has or subsequent to January 1, 1937, had one or more individuals performing services for it within this State.

[(A)] (1) All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be performing services for a single employing unit for all the purposes of this chapter.

[(B)] (2) Each individual employed to perform or to assist in performing the work of any person in the service of an employing unit shall be

deemed to be engaged by the employing unit for all the purposes of this chapter, whether the individual was hired or paid directly by the employing unit or by such person, provided the employing unit had actual or constructive knowledge of the work.

[(9)] "Employer" means:

- (A) Any employing unit which for some portion of a day within the current calendar year has or had in employment one or more individuals; and
- (B) For the effective period of its election pursuant to section 383-77, any other employing unit which has elected to become subject to this chapter.

[(10)] "Employment office" means a free public employment office or branch thereof operated by the State or any other state as a part of a state-controlled system of public employment offices or by a federal agency charged with the administration of an unemployment compensation program or free public employment offices.

[(11)] "Federal Unemployment Tax Act" means chapter 23 of subtitle C of the Internal Revenue Code of 1954.

[(12)] "Fund" means the unemployment compensation fund established by this chapter.

[(13)] "Insured work" means employment for employers.

"Owner-employee" means a person who has performed services for an employing unit as defined in this section, and who is or has been a shareholder owning twenty-five per cent or more of the corporation's common stock, and director or officer, or both, of a corporation which is or was the employing unit or who exercises a substantial degree of control over the direction of corporate activities.

[(14)] "Referee" means the referee for unemployment compensation appeals.

[(15)] "State" includes[, in addition to] the states of the United States, the District of Columbia, Puerto Rico, and Virgin Islands.

[(16)] "Unemployment". An individual shall be deemed "unemployed" in any week during which [he] the individual performs no services and with respect to which no wages are payable to [him,] the individual, or in any week of less than full-time work if the wages payable to [him] the individual with respect to such week are less than [his] the individual's weekly benefit amount. The department shall prescribe [regulations] rules applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, part-total unemployment, partial unemployment, of individuals attached to their regular jobs, and other forms of short-time work, as the department deems necessary. "Week of unemployment" means a week in which an individual is deemed unemployed.

[(17)] "Week" means any period of seven consecutive days as the department may by [regulation] rule prescribe.

[(18)] "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

[(19)] "Weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week for one or more employers subject to this chapter or

with respect to which [he] the individual has received remuneration from one or more employers subject to this chapter in the form of vacation, holiday, or sickness pay or similar remuneration.”

SECTION 2. Section 383-23, Hawaii Revised Statutes, is amended to read as follows:

“§383-23 **Weekly benefit for unemployment.** Each eligible individual who is unemployed, as defined in section [383-1(16),] 383-1, in any week shall be paid with respect to such week a benefit in an amount equal to [his] the individual's weekly benefit amount less that part of the wages (if any) payable to [him] the individual with respect to such week which is in excess of \$2. The benefit, if not a multiple of \$1, shall be computed to the next higher multiple of \$1.”

SECTION 3. Section 383-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) An unemployed individual shall be eligible to receive benefits with respect to any week only if the department [of labor and industrial relations] finds that:

- (1) Claim. [He] The individual has made a claim for benefits with respect to such week in accordance with such [regulations] rules as the department may prescribe.
- (2) Registration. [He] The individual has registered for work at, and thereafter continued to report at, an employment office in accordance with such [regulations] rules as the department may prescribe, except that the department may, by [regulation,] rule, waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this chapter; provided that no such [regulation] rule shall conflict with section 383-21.
- (3) Availability. [He] The individual is able to work and is available for work; provided that no claimant shall be considered ineligible with respect to any week of unemployment for failure to comply with this paragraph if such failure is due to an illness or disability, as evidenced by a physician's certificate, which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work which would have been suitable prior to the beginning of such illness and disability has been offered the claimant.
- (4) Waiting period. [He] The individual has been unemployed for a waiting period of one week within [his] the individual's benefit year. No week shall be counted as a waiting period:
 - (A) If benefits have been paid with respect thereto;
 - (B) Unless the individual was eligible for benefits with respect thereto as provided in this section and section 383-30, except for the requirements of this paragraph.
- (5) Wages for insured work; weeks of employment.
 - (A) In the case of an individual who has established a benefit year prior to January 3, 1965, [he] the individual has been paid wages for insured work during [his] the individual's base period in an amount equal to at least the amount appearing in

column C of the schedule in section 383-22 on the line on which, in column B of the schedule, appears [his] the individual's weekly benefit amount.

- (B) In the case of an individual who has established a benefit year after January 2, 1965, but prior to January 2, 1966, [he] the individual has had during [his] the individual's base period a total of fourteen or more weeks of employment as defined in section [383-1(19)] 383-1 and has been paid wages for insured work during [his] the individual's base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which in column B of the schedule, appears [his] the individual's weekly benefit amount.
- (C) In the case of an individual whose benefit year begins on or after January 2, 1966, [he] the individual has had during [his] the individual's base period a total of fourteen or more weeks of employment as defined in section [383-1(19)] 383-1 and has been paid wages for insured work during [his] the individual's base period in an amount equal to at least thirty times [his] the individual's weekly benefit amount as determined under section 383-22(b). For the purposes of this subparagraph, wages for insured work shall include wages paid for services:
 - (i) Which were not employment, as defined in section 383-2 or pursuant to an election under section 383-77 prior to January 1, 1978, at any time during the one-year period ending December 31, 1975; and
 - (ii) Which are agricultural labor as defined in section 383-9 except such service excluded under section 383-7(1), or are domestic service except such service excluded under section 383-7(2); except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.
- (D) For the purposes of this paragraph, wages and weeks of employment shall be counted for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the dates on which the employing unit by which such wages or other remuneration as provided in the definition of weeks of employment in section [383-1(19)] 383-1 were paid has satisfied the conditions of section [383-1(9)] 383-1 with respect to becoming an employer."

SECTION 4. Section 383-30, Hawaii Revised Statutes, is amended to read as follows:

"§383-30 Disqualification for benefits. An individual shall be disqualified for benefits:

- (1) Voluntary separation. For any week in which [he] the individual has left [his] work voluntarily without good cause, and continuing until [he] the individual has, subsequent to the week in which the voluntary separation occurred, been employed for at least five consecutive weeks of employment. For the purposes of this paragraph, "weeks of employment" means all those weeks within each of which the individual has performed services in employment

for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter.

An owner-employee of a corporation who brings about the owner-employee's unemployment by divesting ownership, leasing the business interest, terminating the business, or by other similar actions where the owner-employee is the party initiating termination of the employment relationship, has voluntarily left employment.

- (2) Discharge or suspension for misconduct. For the week in which [he] the individual has been discharged for misconduct connected with [his] work, and continuing until [he] the individual has, subsequent to the week in which the discharge occurred, been employed for at least five consecutive weeks of employment. For the week in which [he] the individual has been suspended for misconduct connected with [his] work and for not less than one or more than four consecutive weeks of unemployment which immediately follow such week, as determined in each case in accordance with the seriousness of the misconduct. For the purposes of this paragraph, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter.
- (3) Failure to apply for work, etc. For the week in which [he] the individual failed, without good cause, either to apply for available, suitable work when so directed by the employment office or any duly authorized representative of the department of labor and industrial relations, or to accept suitable work when offered [him] and continuing until [he] the individual has, subsequent to the week in which the failure occurred, been employed for at least five consecutive weeks of employment. For the purposes of this paragraph, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter.
 - (A) In determining whether or not any work is suitable for an individual there shall be considered among other factors and in addition to those enumerated in paragraph (3)(B) of this section, the degree of risk involved to [his] the individual's health, safety, and morals, [his] the individual's physical fitness and prior training, [his] the individual's experience and prior earnings, the length of [his] unemployment, [his] the individual's prospects for obtaining work in [his] the individual's customary occupation, the distance of available work from [his] the individual's residence, and prospects for obtaining local work. The same factors so far as applicable shall be considered in determining the existence of good cause for an individual's voluntarily leaving [his] work under paragraph (1) of this section.
 - (B) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for

refusing to accept new work under any of the following conditions:

- (i) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
 - (ii) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
 - (iii) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.
- (4) Labor dispute. For any week with respect to which it is found that [his] unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which [he] the individual is or was last employed; provided that this paragraph shall not apply if it is shown that:
- (A) [He] The individual is not participating in or directly interested in the labor dispute which caused the stoppage of work; and
 - (B) [He] The individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute; provided that, if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purpose of this paragraph, be deemed to be a separate factory, establishment, or other premises.
- (5) If the department finds that [he] the individual has within the twenty-four calendar months immediately preceding any week of [his] unemployment made a false statement or representation of a material fact knowing it to be false or knowingly failed to disclose a material fact to obtain any benefits not due under this chapter, [he] the individual shall be disqualified for benefits beginning with the week in which the department makes the determination and for each consecutive week during the current and subsequent twenty-four calendar months immediately following such determination, and such individual shall not be entitled to any benefit under this chapter for the duration of such period; provided[,] that no disqualification shall be imposed if proceedings have been undertaken against the individual under section 383-141.
- (6) Other unemployment benefits. For any week or part of a week with respect to which [he] the individual has received or is seeking unemployment benefits under any other employment security law, but this paragraph shall not apply (A) if the appropriate agency finally determines that [he] the individual is not entitled to benefits under such other law, or (B) if benefits are payable to [him] the individual under an act of Congress which has as its purpose the supplementation of unemployment benefits under a state law.
- [(7) Deleted.]”

SECTION 5. Section 383-66, Hawaii Revised Statutes, is amended to read as follows:

“§383-66 Contribution rates, how determined. The department [of labor and industrial relations] shall for the nine-month period April 1, 1941 to December 31, 1941 and for each calendar year thereafter, except as otherwise provided in this part, classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts with a view to fixing such contribution rates as will reflect such experience. The department shall determine the contribution rate of each employer in accordance with the following requirements:

- (1) The standard rate of contributions payable by each employer for any calendar year through 1984 shall be three per cent. For the calendar year 1985 and thereafter the standard rate of contributions payable by each employer shall be five and four-tenths per cent.
- (2) No employer's rate for the calendar year 1942 and for any calendar year thereafter shall be other than the maximum rate unless and until [his] the employer's account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December 31 of the preceding calendar year, except that, for the calendar year 1956 and for each calendar year thereafter, an employer who has not been subject to the law for a sufficient period to meet this requirement may qualify for a rate other than the maximum rate if [his] the employer's account has been chargeable throughout a lesser period but in no event less than the twelve consecutive calendar month period ending on December 31 of the preceding calendar year. For the calendar year 1985 and for each calendar year thereafter, the contribution rate for a new or newly covered employer shall be the sum of the employer's basic contribution rate of three and six-tenths per cent and the fund solvency contribution rate determined for such year pursuant to section 383-68(c)(2), until the employer's account has been chargeable with benefits throughout the twelve consecutive calendar month period ending on December 31 of the preceding calendar year; except that no employer's contribution rate shall be greater than five and four-tenths per cent and no employer with a negative reserve ratio shall have a contribution rate less than such employer's basic contribution rate.
- (3) No employer's rate for the calendar year 1965 and for any calendar year thereafter, or remaining calendar quarter thereof, as the case may be, through December 31, 1976 shall be less than the standard rate unless the total assets of the fund as of the end of the previous calendar year, or calendar quarter, were at least \$15,000,000; provided that each employer's rate for any calendar year or any portion thereof, as determined by other applicable provisions of this part shall be increased by one-half per cent, if the total assets of the fund as of the end of the previous calendar year or calendar quarter were at least \$15,000,000 but less than \$20,000,000, but in no event shall an employer's rate exceed the standard rate. Any amount credited to this State under section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund, shall be excluded from the fund for the purposes of this paragraph. Any advance that may be made to this State under section 1201 of the Social Security Act, whether or not withdrawn from this trust fund, shall be excluded from the fund for the purposes of this paragraph.

No employer's rate shall be reduced in any amount which is not allowable as an additional credit, against the tax levied by the federal Unemployment Tax Act pursuant to section 3302(b) of the federal Internal Revenue Code or pursuant to any other federal statute, successor to section 3302(b), which provides for the additional credit now provided for in section 3302(b).

- (4) If, when any such classification of employers is to be made (which may be after the commencement of the period for which the classification is to be made), the department finds that any employer has failed to file any report required in connection therewith or has filed a report which the department finds incorrect or insufficient, the department shall notify the employer thereof by registered mail addressed to [his] the employer's last known address. Unless the employer files the report or a corrected or sufficient report, as the case may be, within fifteen days after the mailing of the notice, the maximum rate of contributions shall be payable by such employer for the period for which the contribution rate is to be fixed.
- (5) For the purpose of sections 383-63 to 383-69, if on or after January 1, 1940, any employing unit in any manner succeeds to or acquires the organization, trade, or business, or substantially all the assets thereof (whether or not the successor or acquiring unit was an "employing unit", as that term is defined in section [383-1(8)] 383-1 prior to the acquisition), of another which at the time of such acquisition was an employer subject to this chapter, and such predecessor employer has executed and filed with the department on a form approved by the department a waiver relinquishing all rights to [his] the predecessor employer's prior experience record with respect to [his] the predecessor employer's separate account, actual contribution payment, and benefit chargeability experience, annual payrolls and other data for the purpose of obtaining a reduced rate, and requesting the department to permit such experience record to inure to the benefit of the successor employing unit upon request of the successor employing unit, the experience record for rate computation purposes of the predecessor shall thereupon be deemed the experience record of the successor and the experience record shall be transferred by the department to the successor employing unit and shall become the separate account of the employing unit as of the date of the acquisition and benefits thereafter chargeable to the employer on account of employment prior to the date of the acquisition shall be charged to such separate account. The successor employing unit, unless already an employer subject to this chapter, shall be subject from the date of acquisition to the rate of contribution of the predecessor or of two or more predecessors if they have the same contribution rate, provided the waiver or waivers required herein are filed with the department before sixty days after the date of acquisition. In case there are two or more predecessors having different contribution rates, the successor shall be subject to the rate prescribed for new or newly covered employers under paragraph (2) until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessors and successor shall be combined and shall be deemed to be the experience record of a

single employing unit and the successor's rate shall thereupon be determined upon the basis of such combined experience. If the successor at the time of the transfer is an employer subject to this chapter, the rate of contribution to which [he] the successor is then subject shall remain the same until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessor and successor shall be combined and shall be deemed to be the experience record of a single employing unit and the successor's rate shall thereupon be determined upon the basis of such combined experience. For the purpose of determination of rates under sections 383-63 to 383-69 of all successor employing units, waivers as required herein, if not previously filed as hereinabove provided, shall be filed with the department not later than March 1 of the year for which the rate is determined; provided that no such waiver shall be accepted by the department for filing unless the employing unit executing the waiver has filed all reports and paid all contributions required of it by this chapter.

- (6) The department may prescribe rules for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and, in accordance with such rules and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, shall maintain such joint account as if it constituted a single employer's account. The rules shall be consistent with the federal requirements for additional credit allowance in section 3303 of the federal Internal Revenue Code and consistent with this chapter.
- (7) Whenever there is an amendment to this chapter which, if immediately effective, would change an employer's rate of contributions, the rate of the employer shall be changed in accordance with the amendment and the new rate shall apply for the remainder of the calendar year beginning with the calendar quarter immediately following the effective date of the amendment providing for such change unless otherwise provided by the amendment.
- (8) For the purposes of this section "contribution rate" shall mean the basic contribution rate as defined in section 383-68 when applied to calendar year 1978 or any calendar year thereafter."

SECTION 6. Section 383-170, Hawaii Revised Statutes, is amended to read as follows:

"§383-170 Eligibility requirements for extended benefits. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in [his] the individual's eligibility period only if the department finds that with respect to such week:

- (1) [He] The individual is an "exhaustee" as defined in section 383-168.
- (2) [He] The individual has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.
- (3) (A) Notwithstanding paragraph (2), an individual shall be ineligible for payment of extended benefits for any week of unemployment in [his] the individual's eligibility period if the department finds that during such period:

- (i) [He] The individual failed to accept any offer of suitable work or failed to apply for any suitable work (as defined under subparagraph (C)) [to] which [he] was referred by the department; or
 - (ii) [He] The individual failed to actively engage in seeking work as prescribed under subparagraph (E).
- (B) Any individual who has been found ineligible for extended benefits by reason of subparagraph (A) shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until [he] the individual has been employed in each of four subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less than four times the extended weekly benefit amount.
- (C) For purposes of this paragraph, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities; provided that:
 - (i) The gross average weekly remuneration payable for the work shall exceed the sum of the individual's extended weekly benefit amount plus the amount, if any, of supplemental unemployment benefits (as defined in section 501(c)(17)(D) of the federal Internal Revenue Code of 1954, as amended) payable to such individual for such week; and
 - (ii) The work pays wages equal to the higher of the minimum wages provided by section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or the state or local minimum wage; and
 - (iii) No individual shall be denied extended benefits for failure to accept an offer of or referral to any job which meets the definition of suitability described above if the position was not offered to such individual in writing and was not listed with the employment service; or such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in section 383-30(3) to the extent that the criteria of suitability in that section are not inconsistent with this subparagraph; or the individual furnishes satisfactory evidence to the department that the individual's prospects of obtaining work in the individual's customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work in section 383-30(3) without regard to the definition specified in this subparagraph.
- (D) Notwithstanding this paragraph to the contrary, no work shall be deemed to be suitable work for an individual which does not conform with the labor standard provisions required by section 3304(a)(5) of the federal Internal Revenue Code of 1954, as amended, and set forth under section 383-30(3).

- (E) For the purposes of subparagraph (A)(ii), an individual shall be treated as actively engaged in seeking work during any week if:
 - (i) The individual has engaged in a systematic and sustained effort to obtain work during such week; and
 - (ii) The individual furnishes tangible evidence that [he] the individual has engaged in such effort during such week.
- (F) The employment service shall refer any claimant entitled to extended benefits under this chapter to any suitable work which meets the criteria prescribed in subparagraph (C).
- (4) Notwithstanding paragraph (2), the individual has with respect to a disqualification under section 383-30(2) for suspension for misconduct connected with the individual's work, imposed during the individual's benefit year or an extended benefit period, been employed in each of four weeks (whether or not consecutive) subsequent to such disqualification and has earned remuneration equal to not less than four times the individual extended weekly benefit amount.
- (5) Notwithstanding paragraph (2), an individual shall not be eligible for extended benefits for any week beginning after September 25, 1982, unless, in the base period with respect to which the individual exhausted all rights to regular benefits under this chapter, the individual had a total of at least twenty weeks of employment as defined in section [383-1(19).] 383-1."

SECTION 7. Section 385-2, Hawaii Revised Statutes, is amended to read as follows:

"§385-2 Definitions, generally. As used in this chapter, unless the context clearly requires otherwise:

- (1) "Director" means the director of labor and industrial relations of the State.
- (2) "Fund" means the additional unemployment compensation fund established by this chapter.
- (3) "Unemployment". An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are receivable by him, or in any week of less than full-time work if the wages receivable by him with respect to such week are less than his weekly benefit amount payable under this chapter.
- (4) "Additional unemployment benefits" means the unemployment compensation benefits payable under this chapter.
- (5) "Normal benefits" means the unemployment compensation benefits payable pursuant to chapter 383.
- (6) "Claimant" means an individual:
 - (A) Who has an unexpired benefit year and has exhausted his normal benefits; or
 - (B) Whose benefit year expired, or whose normal benefits were exhausted, within a period of twenty-six consecutive weeks immediately preceding the week in which the proclamation provided for in section 385-1 became effective; or
 - (C) Who was employed during the week in which the governor's proclamation pursuant to section 385-1 became effective, but

who became unemployed and whose total earned wages are insufficient to entitle him to normal benefits; or

- (D) Whose unemployment was proximately caused by the disaster identified by the governor in the proclamation provided for in section 385-1 and was self-employed during the week in which the disaster occurred.
- (7) "Wages" means all remuneration for services from whatever source, including commissions and bonuses, and remuneration from self-employment, and the cash value of all remuneration in any medium other than cash, but not including tips or gratuities paid directly to an individual by a customer of his employer and not accounted for by the individual to his employer. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the director. For the purposes of this chapter "wages" does not include the amount of payment or remuneration set forth in section 383-11.
- (8) "Week" means any period of seven consecutive days as the director may by regulation prescribe.
- (9) "Benefit year" refers to "benefit year" as that term is defined in section 383-1(3).]

"Additional unemployment benefits" means the unemployment compensation benefits payable under this chapter.

"Benefit year" refers to "benefit year" as that term is defined in section 383-1(3).

"Claimant" means an individual:

- (1) Who has an unexpired benefit year and has exhausted normal benefits; or
- (2) Whose benefit year expired, or whose normal benefits were exhausted, within a period of twenty-six consecutive weeks immediately preceding the week in which the proclamation provided for in section 385-1 became effective; or
- (3) Who was employed during the week in which the governor's proclamation pursuant to section 385-1 became effective, but who became unemployed and whose total earned wages are insufficient for normal benefits; or
- (4) Whose unemployment was proximately caused by the disaster identified by the governor in the proclamation provided for in section 385-1 and was self-employed during the week in which the disaster occurred.

"Director" means the director of labor and industrial relations of the State.

"Fund" means the additional unemployment compensation fund established by this chapter.

"Normal benefits" means the unemployment compensation benefits payable pursuant to chapter 383.

"Owner-employee" means a person who has performed services for an employing unit as defined in section 383-1, and who is or has been a shareholder owning twenty-five per cent or more of the corporation's common stock, and director or officer, or both, of a corporation which is or was the employing unit or who exercises a substantial degree of control over the direction of corporate activities.

"Unemployment". An individual shall be deemed "unemployed" in any week during which the individual performs no services and with respect to

which no wages are receivable by the individual, or in any week of less than full-time work if the wages receivable by the individual with respect to such week are less than the individual's weekly benefit amount payable under this chapter.

"Wages" means all remuneration for services from whatever source, including commissions and bonuses, and remuneration from self-employment, and the cash value of all remuneration in any medium other than cash, but not including tips or gratuities paid directly to an individual by the employer's customer and not accounted for by the individual to the employer. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the director. For the purposes of this chapter, "wages" does not include the amount of payment or remuneration set forth in section 383-11.

"Week" means any period of seven consecutive days as the director may by rule prescribe."

SECTION 8. Section 385-7, Hawaii Revised Statutes, is amended to read as follows:

"§385-7 Disqualification for additional unemployment benefits. A claimant shall be disqualified for additional unemployment benefits:

- (1) Voluntary separation. For any week in which [he] the claimant has left [his] work voluntarily without good cause and for not more than seven consecutive weeks of unemployment which immediately follow such week, as determined according to the circumstances in each case.

An owner-employee of a corporation who brings about the owner-employee's unemployment by divesting ownership, leasing the business interest, terminating the business, or by other similar actions where the owner-employee is the party initiating termination of the employment relationship, has voluntarily left employment.

- (2) Discharge for misconduct. For the week in which [he] the claimant has been discharged for misconduct connected with [his] work and for not more than seven consecutive weeks of unemployment which immediately follow such week, as determined in each case in accordance with the seriousness of the misconduct.
- (3) Failure to apply for work, etc. If [he] the claimant has failed, without good cause, either to apply for available, suitable work when so directed by the director [of labor and industrial relations] or any duly authorized representative of the director, or to accept suitable work when offered [him.] to the claimant. The disqualification shall continue for the week in which such failure occurred and for not more than seven consecutive weeks of unemployment which immediately follow such week, as determined according to the circumstances of each case.

(A) In determining whether or not any work is suitable for a claimant there shall be considered among other factors and in addition to those enumerated in subparagraph (B) of this paragraph, the degree of risk involved to [his] the claimant's health, safety, and morals, [his] the claimant's physical fitness and prior training, [his] the claimant's experience and prior earnings, the length of [his] unemployment, [his] the claimant's prospects for obtaining work in [his] the claimant's customary occupation, and the distance of available work

- from [his] the claimant's residence and prospects for obtaining local work.
- (B) No work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible claimant for refusing to accept new work under any of the following conditions:
- (i) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
 - (ii) If the wages, hours, or other conditions of the work offered are substantially less favorable to the claimant than those prevailing for similar work in the locality;
 - (iii) If as a condition of being employed the claimant would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.
- (4) Labor dispute. For any week with respect to which it is found that [his] the claimant's unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishments, or other premises at which [he] the claimant is or was last employed; provided that this paragraph shall not apply if it is shown that:
- (A) [He] The claimant is not participating in or directly interested in the labor dispute which caused the stoppage of work; and
 - (B) [He] The claimant does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute;
- provided that, if in any case separate branches of work which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purpose of this paragraph be deemed to be a separate factory, establishment, or other premises.
- (5) Fraud. If the director finds that [he] the claimant has made a false statement or representation knowing it to be false or knowingly fails to disclose a material fact to obtain any additional unemployment benefits under this chapter, in which case [he] the claimant shall be disqualified for the week in which the director makes such determination and for the remainder of the weeks for which he would otherwise be eligible."

SECTION 9. Section 392-66, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The weekly benefits payable to the disabled unemployed shall be the same as the benefits to which the individual would be entitled under chapter 383 [or 384] except for [his] the individual's disability; provided that in a case of a disabled unemployed who is performing some form of less than full-time work as referred to in the definition of unemployment in section [383-1(16)] 383-1 at the time the disability arises, [he] the individual shall receive benefits which [he] the individual would have been entitled to had [he] the individual not been performing less than full-time work; provided[,] further[,] that benefits payable under this section shall not be payable for a period longer than twenty-six weeks from the time the above unemployed commences to receive unemployment benefits payable under chapter 383 [or 384]."

SECTION 10. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 11. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 13. This Act shall take effect upon its approval.

(Approved May 14, 1986.)

ACT 163

H.B. NO. 1855-86

A Bill for an Act Relating to Branding.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 146-21, Hawaii Revised Statutes, is amended to read as follows:

"§146-21 Retention of the hide of butchered calf, heifer, cow, steer, and bull; subject to public inspection. Every person slaughtering a calf, heifer, cow, steer, and bull butchered for purposes of human consumption shall, for a period of two weeks after the killing of a calf, heifer, cow, steer, and bull, retain the hide of the same and allow any interested person, in the usual business hours during that period, to inspect the same; provided, that disposition may be made of a hide within the period aforesaid upon receipt from the officer in charge of recording brands of written permission so to do[.]; provided further that the retention of hides shall not be required if the purpose of the slaughter is for personal consumption. For the purpose of this section, "personal consumption" means for one's own use or for use by one's family."

SECTION 2. Section 146-22, Hawaii Revised Statutes, is amended to read as follows:

"§146-22 Reports. Every person who slaughters a calf, heifer, cow, steer, or bull, whether wild or domesticated, at any place other than a duly licensed slaughterhouse shall comply with [the provisions of] section 146-21 and, in addition thereto, shall forthwith report such slaughtering to the officer in charge of recording brands. Such report shall include a description of the animal slaughtered, including its sex and [brand,] a full description of each and every brand on the animal, the date and place of slaughter, and the name of the person from whom, and date when, [such] the animal was acquired [by him]. If any of the described brands on the animal appear to be obliterated, as described in section 142-47, or to be felonious, as described in section 142-48, the person shall make a report of the obliterated or felonious brand to the appropriate law enforcement agency pursuant to rules adopted by the department of agriculture."

SECTION 3. Section 146-24, Hawaii Revised Statutes, is amended to read as follows:

“§146-24 Violations; penalty. A violation of [either of sections] section 146-21, 146-22, or 146-23 shall be punishable by a fine of not more than \$500 or imprisonment of not more than one year, or both.”

SECTION 4. Section 159-15, Hawaii Revised Statutes, is amended to read as follows:

“[]§159-15[] Bonding. Upon a person being granted a license to slaughter animals for the purpose of using the meat or meat products thereof in intrastate commerce, the board shall exact from the licensee a bond in the penal sum of \$5,000, the bond to be obtained from a surety company authorized to do business in the State and to be so conditioned that the licensee shall be required to keep a full and accurate record concerning every animal which he may purchase, kill, or sell; and that [he] the licensee will at all times during regular business hours keep the record open for the inspection by representatives of the board who may desire to examine the same. The record shall contain:

- (1) The sex of the animal.
- (2) [The] A full description of each and every brand on the animal, stating the position of each brand on the animal [of the brand]. If any of the described brands on the animal appear to be obliterated, as described in section 142-47, or to be felonious, as described in section 142-48, the person shall make a report of the obliterated or felonious brand to the appropriate law enforcement agency pursuant to rules adopted by the department of agriculture.
- (3) Ear tag number or other mark of identification.
- (4) The principal color of the animal.
- (5) The name of the person who sold the animal to him.
- (6) The date when the animal was sold to him.
- (7) The date when the animal was delivered to him.
- (8) The date when the animal was killed.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 14, 1986.)

ACT 164

H.B. NO. 2036-86

A Bill for an Act Relating to the Board of Registration of Professional Engineers, Architects, Surveyors, and Landscape Architects.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 464-8, Hawaii Revised Statutes, is amended to read as follows:

“§464-8 Qualifications for registration. No person shall be eligible for registration as a professional engineer, architect, land surveyor, or landscape architect unless:

- (1) The person is the holder of an unexpired certificate of registration issued to the person by any jurisdiction, domestic or foreign, in which the requirements for registration at the time the person was first registered were of a standard satisfactory to the board; provided[,] that this paragraph shall [be] apply only [applicable] to

professional engineering, architecture, and landscape architecture; and provided[,] further that if the board is in doubt as to whether the standards were satisfactory, or as to whether the holder was required to fully comply with them, it shall require that the holder successfully pass a written [or oral] examination, [or both,] prescribed by the board and designed to test the holder's knowledge, skill, and competency in the profession for which registration is desired; or

- (2) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed an engineering or landscape architectural curriculum of four years or more, all as the case may be; and also has had four years of full-time lawful experience in engineering or three years of full-time lawful experience in landscape architecture work, as the case may be, of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has also successfully passed a written [or oral] examination, [or both,] prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession for which registration is desired; or
- (3) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed an engineering technology curriculum of four years or more, all as the case may be, and also has had eight years of full-time lawful experience in engineering work, as the case may be, of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has also successfully passed a written [or oral] examination, [or both,] prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of engineering; or
- (4) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed a pre-landscape architecture or arts and science curriculum of four years or more; and has also had five years of full-time lawful experience in landscape architectural work of a character satisfactory to the board, and has also successfully passed a professional written [or oral] examination, [or both,] prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of landscape architecture; or
- (5) The person has had twelve years of full-time lawful experience in engineering or landscape architecture work as the case may be, of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has also successfully passed a written [or oral] examination, [or both,] prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession for which registration is desired; or
- (6) (A) The person holds a masters degree in architecture from an approved institution of higher education with training and education in the field of architecture adequate to the satisfaction of the board; and has also had one year of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a professional

- written [or oral] examination, [or both,] prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of architecture; or
- (B) The person holds a bachelors degree in architecture from a school or college approved by the board as of satisfactory standing, and has completed an architectural curriculum of five years; and also had two years of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a professional written [or oral] examination, [or both,] prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession or architecture; or
- (7) The person is a graduate of a school or college approved by the board as of satisfactory standing and has completed a pre-architecture or arts and science curriculum of four years or more; and has also had five years of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a professional written [or oral] examination, [or both,] prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of architecture; or
- (8) The person is a graduate of a community college or other technical training school approved by the board as of satisfactory standing, and has completed an architectural technology curriculum of two years or more; and has also had eight years of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a professional written [or oral] examination, [or both,] prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of architecture; or
- (9) The person has had eleven years of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a professional written [or oral] examination, [or both,] prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of architecture; or
- (10) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed a geo-science, civil engineering, or general engineering curriculum of four years or more; and has also had three years of full-time lawful experience in land surveying of a character satisfactory to the board; and has also successfully passed a professional written [or oral] examination, [or both,] prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of land surveying; or
- (11) The person is a graduate of a community college approved by the board as of satisfactory standing, and has completed a civil engineering technology (survey option) curriculum of two years or more; and has also had seven years of full-time lawful experience in land surveying of a character satisfactory to the board; and has also successfully passed a [qualifying written examination and a] professional written [or oral] examination, [or both,] prescribed by the

- board and designed to test the person's knowledge, skill, and competency in the profession of land surveying; or
- (12) The person has had eleven years of full-time lawful experience in land surveying of a character satisfactory to the board; and has also successfully passed a [qualifying written examination and a] professional written [or oral] examination, [or both,] prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of land surveying.

In addition to the foregoing requirements, the board may, in its discretion, require additional proof that the applicant is competent to practice professionally, and whenever the board is not fully satisfied from the results of an examination that any applicant is competent to practice professionally, it may give the applicant a further examination or examinations.

No person shall be eligible for registration as a professional engineer, architect, land surveyor, or landscape architect who is not of good character and reputation."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 14, 1986.)

ACT 165

H.B. NO. 2119-86

A Bill for an Act Relating to Residential Leaseholds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 516-1, Hawaii Revised Statutes, is amended by amending the definition "Development tract" to read as follows:

- “(2) “Development tract” means a single contiguous area of real property not less than five acres in size which has been developed and subdivided into residential lots[.], including residential lots which may have been converted to fee simple and streets and roadways developed as an integral part of the development tract. Two or more pieces of real property shall be considered as a single contiguous area if they would be contiguous except for the interposition or existence of a road, street, stream, fee lot, or other like interference.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 14, 1986.)

ACT 166

S.B. NO. 291

A Bill for an Act Relating to Adoption.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 578-1.5, Hawaii Revised Statutes, is amended to read as follows:

"[[§578-1.5 []] Adoption. Any [minor child or an adult who is a niece, nephew, or stepchild of one of the adopting parents] person may be adopted under this chapter; provided that [the] an adult to be adopted must give [his] written consent to the adoption."

SECTION 2. Section 578-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A petition to adopt an adult may be granted only if written consent to adoption has been executed by the adult and the adult's spouse, if the adult is married[, and if the adult to be adopted is an adult niece, nephew, or stepchild of the adopting parents]."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

ACT 167

S.B. NO. 1496-86

A Bill for an Act Relating to Geothermal Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 205-5.1, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) If geothermal development activities are proposed within a conservation district, then, after receipt of a properly filed and completed application, the board of land and natural resources shall conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91 to determine whether, pursuant to board regulations, a conservation district use permit shall be granted to authorize the geothermal development activities described in the application. The board shall grant a conservation district use permit if it finds that the applicant has demonstrated by a preponderance of the evidence that:

- (1) The desired uses would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property; and
 - (2) The desired uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection; or
 - (3) There are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to above.
- A decision shall be made by the board:
- (1) Within six months of the date a complete application was filed if no contested case hearing is held; or
 - (2) Within nine months of the date a complete application was filed if a contested case hearing is held;

provided that the time limits may be extended by agreement between the applicant and the board."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

ACT 168

S.B. NO. 1718-86

A Bill for an Act Relating to the Compensation of Certain Persons Under the Criminal Injuries Compensation Act and Providing Appropriations Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of compensating four hundred three victims and providers of services pursuant to chapter 351, Hawaii Revised Statutes, in the amounts set out opposite their respective case numbers:

Case No. 82-323		250.00
Case No. 82-443		10,000.00
Case No. 83-259		75.31
Case No. 83-266		2,123.16
Case No. 83-288		1,364.11
Case No. 83-288	(Dr. Thad Kawakami-Wong)	2,080.00
Case No. 83-288	(Dr. Rolland Nakashima)	751.53
Case No. 83-288	(Kuakini Radiology Group, Inc.)	86.11
Case No. 83-288	(Kaiser Foundation Hospital)	54.00
Case No. 83-288	(Dr. Coolidge Wakai)	41.96
Case No. 83-308		500.00
Case No. 83-336		367.60
Case No. 83-338		250.00
Case No. 83-366		857.42
Case No. 83-366	(Dr. Douglas Chang)	1,023.36
Case No. 83-429		2,500.00
Case No. 83-440		656.86
Case No. 83-450		1,658.93
Case No. 83-481		540.25
Case No. 83-481	(Chock-Pang Clinic)	1,039.06
Case No. 83-505		136.48
Case No. 83-505	(Dr. Don Parsa)	1,560.00
Case No. 83-505	(Waianae Coast Comprehensive Health Center)	294.86
Case No. 83-524		250.00
Case No. 83-526		750.00
Case No. 83-526	(Wahiawa General Hospital)	3,994.55
Case No. 83-526	(Dr. Lonnie Tiner)	3,268.85
Case No. 83-526	(Wahiawa Clinic, Inc.)	1,341.60
Case No. 83-526	(Dr. Than Tun)	297.44
Case No. 83-526	(The Radiology Group, Inc.)	18.00
Case No. 83-526	(Hawaii Emergency Physicians Associated, Inc.)	78.12
Case No. 83-549		567.47
Case No. 83-549	(Queen's Medical Center)	1,908.30
Case No. 83-552		726.55
Case No. 84-1		1,500.00
Case No. 84-13		1,612.74
Case No. 84-58		50.00

Case No. 84-75		2,394.05
Case No. 84-85		250.00
Case No. 84-85	(Straub Clinic & Hospital, Inc.)	394.65
Case No. 84-101		1,000.10
Case No. 84-101	(Waianae Coast Comprehensive Health Center)	138.85
Case No. 84-101	(Dr. Gene Doo)	313.20
Case No. 84-101	(Dr. John Henrickson, Jr.)	181.42
Case No. 84-101	(Dr. Thomas Merrill)	16.00
Case No. 84-107	(Straub Clinic & Hospital, Inc.)	402.17
Case No. 84-127		1,634.60
Case No. 84-143	(Dr. Stephen Lum)	46.05
Case No. 84-171	(Hilo Hospital)	339.46
Case No. 84-183		136.40
Case No. 84-188		200.00
Case No. 84-196		200.00
Case No. 84-202	(Queen's Medical Center)	2,347.00
Case No. 84-202	(The Emergency Group, Inc.)	114.40
Case No. 84-202	(Dr. M. Takai)	376.95
Case No. 84-202	(Radiology Associates, Inc.)	59.28
Case No. 84-202	(Dr. Michael Okihiro)	69.68
Case No. 84-202	(Dr. Don Parsa)	36.40
Case No. 84-202	(Hawaii Pathologists' Laboratory)	9.36
Case No. 84-225		134.32
Case No. 84-227		3,404.77
Case No. 84-242		750.00
Case No. 84-244		1,603.00
Case No. 84-253		407.50
Case No. 84-265		500.00
Case No. 84-278		1,500.00
Case No. 84-278	(Kaiser Foundation Hospital)	5,135.45
Case No. 84-284		250.00
Case No. 84-291		250.00
Case No. 84-294		9,600.00
Case No. 84-301		304.44
Case No. 84-302		738.46
Case No. 84-310		373.12
Case No. 84-310	(Queen's Medical Center)	36.00
Case No. 84-310	(The Emergency Group, Inc.)	68.64
Case No. 84-313		75.00
Case No. 84-320		804.80
Case No. 84-338		1,345.30
Case No. 84-341		100.00
Case No. 84-341	(Hilo Hospital)	235.10
Case No. 84-341	(Hawaii Emergency Physicians Associated, Inc.)	78.12
Case No. 84-341	(Hilo Radiologic Associates, Ltd.)	75.50
Case No. 84-344		100.00
Case No. 84-346		1,100.00
Case No. 84-346	(Kuakini Medical Center)	1,476.70
Case No. 84-346	(Dr. Shun-Kwung Liao)	163.80
Case No. 84-346	(Kuakini Emergency Physicians Service, Inc.)	77.08
Case No. 84-346	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 84-346	(Kuakini Radiology Group, Inc.)	52.00
Case No. 84-348		250.00
Case No. 84-352		1,899.30
Case No. 84-355		250.00

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Case No. 84-358		2,500.00
Case No. 84-359		100.00
Case No. 84-363		1,000.00
Case No. 84-368		500.00
Case No. 84-368	(Lucy Henriques Medical Center)	162.18
Case No. 84-372		472.90
Case No. 84-373		250.00
Case No. 84-376		400.00
Case No. 84-376	(Hilo Hospital)	84.15
Case No. 84-376	(Hawaii Emergency Physicians Associated, Inc.)	130.20
Case No. 84-376	(Clinical Laboratories of Hawaii, Inc.)	65.98
Case No. 84-377		689.12
Case No. 84-377	(Hilo Hospital)	1,284.00
Case No. 84-377	(Clinical Laboratories of Hawaii, Inc.)	455.26
Case No. 84-377	(Hilo Medical Group, Inc.)	185.46
Case No. 84-377	(Hawaii Emergency Physicians Associated, Inc.)	182.28
Case No. 84-382		554.00
Case No. 84-382	(Kaiser Foundation Hospital)	782.00
Case No. 84-382	(Mililani Memorial Park & Mortuary)	1,946.00
Case No. 84-385		1,939.17
Case No. 84-394		1,180.20
Case No. 84-395		509.22
Case No. 84-396		1,017.01
Case No. 84-397		2,594.66
Case No. 84-397	(Monts Chiropractic Clinic)	1,674.75
Case No. 84-401		336.47
Case No. 84-401	(G.N. Wilcox Memorial Hospital & Health Center)	899.85
Case No. 84-401	(Kauai Medical Group)	603.74
Case No. 84-401	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 84-402		500.00
Case No. 84-403		100.00
Case No. 84-404		506.00
Case No. 84-404	(Hilo Hospital)	62.00
Case No. 84-404	(Hawaii Emergency Physicians Associated, Inc.)	78.12
Case No. 84-404	(Hilo Radiologic Associates, Inc.)	45.76
Case No. 84-405		2,000.00
Case No. 84-405	(Hilo Hospital)	293.00
Case No. 84-405	(East-West Medical Massage & Acupuncture, Inc.)	116.00
Case No. 84-405	(Dr. Ross Trattler)	77.00
Case No. 84-407		2,500.00
Case No. 84-407	(Kapiolani Women's & Children's Medical Center)	223.35
Case No. 84-412		3,603.20
Case No. 84-413	(Kaiser Foundation Hospital)	143.50
Case No. 84-414		50.00
Case No. 84-416		750.00
Case No. 84-417		1,000.00
Case No. 84-419		250.00
Case No. 84-419	(Waianae Coast Comprehensive Health Center)	168.16
Case No. 84-421		2,183.76

Case No. 84-422		915.00
Case No. 84-422	(Dr. Ronald Miller)	236.00
Case No. 84-444		513.08
Case No. 84-448		705.89
Case No. 84-449		50.00
Case No. 84-450		1,753.65
Case No. 84-452		50.00
Case No. 84-453		3,500.00
Case No. 84-454		909.48
Case No. 84-456		890.72
Case No. 84-456	(Straub Clinic & Hospital, Inc.)	709.83
Case No. 84-456	(Dr. Wayne Hirota)	2,600.00
Case No. 84-456	(Kometani & Associates)	105.00
Case No. 84-456	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 84-458		500.00
Case No. 84-458	(Maui Memorial Hospital)	158.19
Case No. 84-458	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 84-458	(Dr. William Ryan)	38.40
Case No. 84-458	(Maui Radiology Consultants)	33.30
Case No. 84-460		3,268.73
Case No. 84-461		332.80
Case No. 84-461	(Kaiser Foundation Hospital)	139.00
Case No. 84-464		500.00
Case No. 84-464	(Kaiser Foundation Hospital)	413.00
Case No. 84-465		250.00
Case No. 84-467		452.98
Case No. 84-469		802.49
Case No. 84-469	(Queen's Medical Center)	1,812.34
Case No. 84-469	(Waianae Coast Comprehensive Health Center)	351.02
Case No. 84-469	(Dr. Shun-Kwung Liao)	336.60
Case No. 84-469	(International Life Support, Inc.)	326.10
Case No. 84-469	(The Emergency Group, Inc.)	124.80
Case No. 84-469	(Radiology Associates, Inc.)	48.88
Case No. 84-470		765.76
Case No. 84-473		750.00
Case No. 84-474		150.00
Case No. 84-474	(Hilo Hospital)	254.10
Case No. 84-474	(Hilo Radiologic Associates, Ltd.)	84.86
Case No. 84-474	(Hawaii Emergency Physicians Associated, Inc.)	76.12
Case No. 84-475		250.00
Case No. 84-478		200.00
Case No. 84-479		250.00
Case No. 84-480		750.00
Case No. 84-483		825.00
Case No. 84-485		497.00
Case No. 84-486		1,089.59
Case No. 84-487		1,250.00
Case No. 84-489		1,981.04
Case No. 84-491		250.00
Case No. 84-492		50.00
Case No. 84-493		750.00
Case No. 84-495		4,401.97
Case No. 84-496		400.00
Case No. 84-499		750.00
Case No. 84-500		1,308.00

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Case No. 84-500	(M.W. Nicholson, Ltd.)	1,910.48
Case No. 84-502		858.00
Case No. 84-505		500.00
Case No. 84-507		375.00
Case No. 84-507	(Straub Clinic & Hospital, Inc.)	392.53
Case No. 84-509		1,510.00
Case No. 84-510		1,500.00
Case No. 84-511		750.00
Case No. 84-512		1,398.00
Case No. 84-513		500.00
Case No. 84-514		500.00
Case No. 84-515		500.00
Case No. 84-517		634.00
Case No. 84-518		1,225.00
Case No. 84-519		725.00
Case No. 84-521	(Kona Hospital)	250.36
Case No. 85-2		195.30
Case No. 85-2	(Queen's Medical Center)	153.00
Case No. 85-2	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 85-2	(The Emergency Group, Inc.)	334.88
Case No. 85-3		1,675.20
Case No. 85-4		1,500.00
Case No. 85-4	(Kona Hospital)	851.99
Case No. 85-4	(Hilo Hospital)	293.00
Case No. 85-4	(Dr. Peter In)	265.00
Case No. 85-4	(Clinical Laboratories of Hawaii, Inc.)	303.55
Case No. 85-4	(Islands Emergency Medical Service, Inc.)	68.75
Case No. 85-6		250.00
Case No. 85-9		350.00
Case No. 85-14		500.00
Case No. 85-18	(Hilo Hospital)	226.60
Case No. 85-18	(Dr. John Paopao)	279.96
Case No. 85-18	(Hawaii Emergency Physicians Associated, Inc.)	78.12
Case No. 85-18	(Clinical Laboratories of Hawaii, Inc.)	30.10
Case No. 85-20		739.08
Case No. 85-21		200.00
Case No. 85-21	(Queen's Medical Center)	45.00
Case No. 85-22		1,241.84
Case No. 85-25		520.00
Case No. 85-25	(Queen's Medical Center)	95.00
Case No. 85-25	(Waianae Coast Comprehensive Health Center)	62.71
Case No. 85-25	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 85-25	(Dr. Don Parsa)	72.80
Case No. 85-26		267.47
Case No. 85-26	(Queen's Medical Center)	171.46
Case No. 85-26	(Plastic Surgery Hawaii, Ltd.)	418.91
Case No. 85-26	(The Emergency Group, Inc.)	74.88
Case No. 85-29		250.00
Case No. 85-36		3,000.00
Case No. 85-37		250.00
Case No. 85-38		125.00
Case No. 85-41		2,000.00

Case No. 85-42		467.04
Case No. 85-42	(Kona Hospital)	1,672.00
Case No. 85-42	(Dr. William Babbitt)	2,896.40
Case No. 85-42	(Kona Anesthesia Associates, Ltd.)	102.32
Case No. 85-42	(Dr. Minolu Cheng)	183.04
Case No. 85-43		100.00
Case No. 85-44		1,058.46
Case No. 85-45		300.00
Case No. 85-46		982.06
Case No. 85-47		4,288.75
Case No. 85-48		614.64
Case No. 85-49		696.40
Case No. 85-52		350.00
Case No. 85-53		250.00
Case No. 85-54		2,667.31
Case No. 85-55		1,179.22
Case No. 85-55	(Queen's Medical Center)	130.00
Case No. 85-55	(The Honolulu Medical Group, Inc.)	573.97
Case No. 85-55	(Dr. Francis T. Lim)	208.00
Case No. 85-55	(Dr. Bennett M.K. Lau)	35.36
Case No. 85-55	(The Emergency Group, Inc.)	74.88
Case No. 85-55	(Radiology Associates, Inc.)	30.16
Case No. 85-56		2,000.00
Case No. 85-57		1,314.75
Case No. 85-58		975.00
Case No. 85-60		500.00
Case No. 85-61		652.61
Case No. 85-62		1,498.50
Case No. 85-64		515.12
Case No. 85-64	(Kona Hospital)	430.50
Case No. 85-67		47.03
Case No. 85-67	(Dr. Clyde Ishida)	388.00
Case No. 85-68		1,395.70
Case No. 85-69		50.00
Case No. 85-70		73.41
Case No. 85-73		287.47
Case No. 85-74		1,026.21
Case No. 85-75		5,453.40
Case No. 85-77		3,000.00
Case No. 85-79		234.40
Case No. 85-80		595.91
Case No. 85-83		96.56
Case No. 85-85		2,500.00
Case No. 85-86		1,000.00
Case No. 85-88		10,000.00
Case No. 85-89		500.00
Case No. 85-89	(G.N. Wilcox Memorial Hospital & Health Center)	83.00
Case No. 85-89	(Kalaheo Clinic)	79.56
Case No. 85-89	(Kauai Medical Group)	30.16
Case No. 85-90		250.00
Case No. 85-91		2,386.96
Case No. 85-93		759.54
Case No. 85-97		750.00
Case No. 85-97	(Dr. Lee Hansen Sisson)	124.80
Case No. 85-98		174.18
Case No. 85-99		250.00
Case No. 85-100		1,020.00
Case No. 85-100	(G.N. Wilcox Memorial Hospital & Health Center)	170.10

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Case No. 85-101		1,447.50
Case No. 85-102	(Queen's Medical Center)	389.00
Case No. 85-102	(Dr. James Oda)	158.09
Case No. 85-102	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 85-102	(Hawaii Pathologists' Laboratory)	9.36
Case No. 85-102	(The Emergency Group, Inc.)	68.64
Case No. 85-102	(Radiology Associates, Inc.)	62.40
Case No. 85-102	(Kuakini Plaza Radiology, Inc.)	65.52
Case No. 85-103		1,757.96
Case No. 85-103	(Leeward Funeral Home)	930.60
Case No. 85-103	(Hawaii Emergency Physicians Associated, Inc.)	359.00
Case No. 85-105		2,757.95
Case No. 85-105	(Maui Memorial Hospital)	481.51
Case No. 85-105	(Dr. Russell Stodd)	200.00
Case No. 85-105	(Radiology Consultants)	113.20
Case No. 85-107		250.00
Case No. 85-109		2,289.75
Case No. 85-110		750.00
Case No. 85-111		500.00
Case No. 85-112		151.13
Case No. 85-113		300.00
Case No. 85-114		842.08
Case No. 85-115		2,568.00
Case No. 85-120		608.26
Case No. 85-121		300.00
Case No. 85-122		1,000.00
Case No. 85-123		410.96
Case No. 85-127		1,500.00
Case No. 85-129		428.24
Case No. 85-129	(Castle Medical Center)	149.85
Case No. 85-130		3,400.60
Case No. 85-130	(Queen's Medical Center)	1,054.00
Case No. 85-130	(Anesthesia Associates, Inc.)	708.00
Case No. 85-130	(The Rehabilitation Hospital of the Pacific)	82.80
Case No. 85-131		789.00
Case No. 85-132		500.00
Case No. 85-132	(Rathjen Clinic)	431.60
Case No. 85-134		100.00
Case No. 85-136		1,101.56
Case No. 85-137		347.00
Case No. 85-137	(Dr. Jack Lundgren)	446.16
Case No. 85-138		500.00
Case No. 85-138	(Wahiawa General Hospital)	420.40
Case No. 85-138	(Hawaii Emergency Physicians Associates, Inc.)	234.36
Case No. 85-138	(Dr. Walter Wong)	795.00
Case No. 85-138	(Wahiawa Clinic, Inc.)	55.12
Case No. 85-138	(The Radiology Group, Inc.)	64.00
Case No. 85-139		131.50
Case No. 85-140		150.00
Case No. 85-141		305.55
Case No. 85-142		1,500.00
Case No. 85-143		7,500.00
Case No. 85-145		192.40
Case No. 85-146		200.00

Case No. 85-147		750.00
Case No. 85-148		750.00
Case No. 85-149		1,500.00
Case No. 85-150		486.59
Case No. 85-151		10,000.00
Case No. 85-154		25.66
Case No. 85-155		750.00
Case No. 85-156		750.00
Case No. 85-158		750.00
Case No. 85-159		750.00
Case No. 85-161		793.94
Case No. 85-161	(Waianae Coast Comprehensive Health Center)	76.20
Case No. 85-161	(Leeward Dental Group, Inc.)	608.00
Case No. 85-164		1,000.00
Case No. 85-164	(Hawaii Permanente Medical Group)	146.00
Case No. 85-166		1,308.00
Case No. 85-167		1,003.34
Case No. 85-168		100.00
Case No. 85-169		50.00
Case No. 85-170		1,500.00
Case No. 85-172		61.00
Case No. 85-174		65.00
Case No. 85-175		575.92
Case No. 85-175	(St. Francis Hospital)	289.19
Case No. 85-176		6,247.26
Case No. 85-178	(G.N. Wilcox Memorial Hospital & Health Center)	592.00
Case No. 85-178	(Sam Mahelona Memorial Hospital)	712.00
Case No. 85-178	(Waimea Clinic, Inc.)	91.73
Case No. 85-180		350.00
Case No. 85-181		875.45
Case No. 85-182		750.00
Case No. 85-183		750.00
Case No. 85-184		250.00
Case No. 85-184	(Straub Clinic & Hospital, Inc.)	365.99
Case No. 85-185		1,108.00
Case No. 85-185	(Dr. Thomas H. Smith)	210.00
Case No. 85-186		350.00
Case No. 85-186	(The Emergency Group, Inc.)	74.88
Case No. 85-187		50.00
Case No. 85-189		1,275.00
Case No. 85-189	(Straub Clinic & Hospital, Inc.)	248.12
Case No. 85-189	(Dr. Kevin Chang)	1,898.72
Case No. 85-189	(Oral Surgery Group)	651.04
Case No. 85-191		2,433.18
Case No. 85-192		302.74
Case No. 85-192	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 85-194		604.22
Case No. 85-197		500.00
Case No. 85-198		273.45
Case No. 85-199		1,588.85
Case No. 85-201		236.60
Case No. 85-203		50.00
Case No. 85-204		640.26
Case No. 85-205		1,500.00
Case No. 85-206		750.00
Case No. 85-207		1,112.00

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Case No. 85-208		540.00
Case No. 85-208	(Dr. George Wessberg)	906.40
Case No. 85-208	(Waianae Coast Comprehensive Health Center)	312.83
Case No. 85-209		392.66
Case No. 85-210		3,879.62
Case No. 85-211		1,000.00
Case No. 85-211	(Maui Memorial Hospital)	1,033.05
Case No. 85-211	(Dr. Sakae Uehara)	338.52
Case No. 85-211	(Dr. Charles T. Mitchell)	724.31
Case No. 85-211	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 85-211	(Dr. Lorne Direnfeld)	130.00
Case No. 85-211	(Maui Radiology Consultants)	1,812.90
Case No. 85-212	(Queen's Medical Center)	165.00
Case No. 85-212	(The Emergency Group, Inc.)	204.88
Case No. 85-214		1,806.67
Case No. 85-216		250.00
Case No. 85-216	(Kaiser Foundation Hospital)	425.00
Case No. 85-218		341.20
Case No. 85-220		300.00
Case No. 85-223		2,081.70
Case No. 85-224		293.68
Case No. 85-225		617.32
Case No. 85-226		276.80
Case No. 85-226	(St. Francis Hospital)	203.71
Case No. 85-226	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 85-226	(The Radiology Group, Inc.)	30.00
Case No. 85-227		1,888.37
Case No. 85-227	(Dr. Leslie Ito)	44.00
Case No. 85-227	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 85-228		1,835.33
Case No. 85-228	(Queen's Medical Center)	165.67
Case No. 85-228	(Dr. Robert K. Childs)	378.09
Case No. 85-229		3,728.15
Case No. 85-230		250.00
Case No. 85-230	(Queen's Medical Center)	250.00
Case No. 85-230	(Dr. Ramon Sy)	146.21
Case No. 85-230	(The Emergency Group, Inc.)	124.80
Case No. 85-230	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 85-230	(Radiology Associates, Inc.)	81.12
Case No. 85-231		750.00
Case No. 85-232		1,500.00
Case No. 85-233		50.00
Case No. 85-234	(Kona Hospital)	114.95
Case No. 85-236		500.00
Case No. 85-236	(Straub Clinic & Hospital, Inc.)	120.29
Case No. 85-236	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 85-237		1,439.00
Case No. 85-237	(Castle Medical Center)	122.20
Case No. 85-237	(Dr. Edwin Dierdorff)	388.96
Case No. 85-237	(The Radiology Group, Inc.)	35.00
Case No. 85-238		2,767.64
Case No. 85-239		250.00
Case No. 85-241		701.12

Case No. 85-241	(Dr. John Paopao)	230.00
Case No. 85-243		7,898.93
Case No. 85-246		1,000.00
Case No. 85-247		750.00
Case No. 85-249		10,000.00
Case No. 85-250		182.24
Case No. 85-251		952.26
Case No. 85-252		100.00
Case No. 85-254		427.42
Case No. 85-254	(Queen's Medical Center)	235.00
Case No. 85-254	(The Emergency Group, Inc.)	334.88
Case No. 85-254	(Dr. Byron Young)	55.92
Case No. 85-254	(Radiology Associates, Inc.)	37.44
Case No. 85-255		350.00
Case No. 85-256		1,315.00
Case No. 85-258		1,397.24
Case No. 85-259		29.50
Case No. 85-259	(Dr. Frank Voralik)	126.36
Case No. 85-259	(Dr. David Randell)	64.48
Case No. 85-259	(Kahuku Hospital)	338.00
Case No. 85-260		500.00
Case No. 85-262	(Hilo Medical Group, Inc.)	139.32
Case No. 85-263		200.00
Case No. 85-264		96.00
Case No. 85-265	(Queen's Medical Center)	113.00
Case No. 85-265	(Dr. Thomas Owens)	107.54
Case No. 85-265	(The Emergency Group, Inc.)	74.88
Case No. 85-265	(Radiology Associates, Inc.)	21.84
Case No. 85-265	(Dr. Richard DeJournett)	56.78
Case No. 85-266		1,626.58
Case No. 85-267		250.00
Case No. 85-267	(Queen's Medical Center)	232.00
Case No. 85-268		90.43
Case No. 85-269		459.84
Case No. 85-272		300.00
Case No. 85-273		500.00
Case No. 85-274		500.00
Case No. 85-275		500.00
Case No. 85-276	(Maui Memorial Hospital)	246.73
Case No. 85-276	(Dr. Lawrence Folkes)	62.40
Case No. 85-280		100.00
Case No. 85-281		500.00
Case No. 85-282		100.00
Case No. 85-283		50.00
Case No. 85-284		50.00
Case No. 85-285		100.00
Case No. 85-287		150.00
Case No. 85-287	(Hilo Hospital)	226.85
Case No. 85-288		350.00
Case No. 85-291		50.00
Case No. 85-292		552.00
Case No. 85-294		2,000.10
Case No. 85-294	(Straub Clinic & Hospital, Inc.)	2,538.61
Case No. 85-294	(Kona Hospital)	133.15
Case No. 85-294	(Dr. Stan Swanson)	210.00
Case No. 85-294	(Dr. Alfred Blue)	40.00
Case No. 85-294	(Islands Emergency Medical Service, Inc.)	67.60
Case No. 85-296		543.49

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Case No. 85-298		932.96
Case No. 85-301		206.50
Case No. 85-302		1,041.12
Case No. 85-306	(Wahiawa General Hospital)	137.80
Case No. 85-307		50.00
Case No. 85-312		350.00
Case No. 85-315		2,000.00
Case No. 85-316		1,500.00
Case No. 85-320		1,792.07
Case No. 85-323		275.68
Case No. 85-324		1,500.00
Case No. 85-325		750.00
Case No. 85-326		1,500.00
Case No. 85-328		250.00
Case No. 85-329		290.14
Case No. 85-329	(Queen's Medical Center)	428.00
Case No. 85-329	(The Emergency Group, Inc.)	514.80
Case No. 85-329	(Radiology Associates, Inc.)	94.64
Case No. 85-330	(Queen's Medical Center)	1,742.00
Case No. 85-333		5,000.00
Case No. 85-335		424.52
Case No. 85-337		558.08
Case No. 85-337	(Kona Hospital)	99.60
Case No. 85-337	(Islands Emergency Medical Service, Inc.)	178.11
Case No. 85-338		2,546.87
Case No. 85-343		356.65
Case No. 85-351		457.53
Case No. 85-351	(Queen's Medical Center)	467.00
Case No. 85-351	(Dr. Alan Suyama)	486.72
Case No. 85-351	(The Emergency Group, Inc.)	125.65
Case No. 85-351	(Dr. Aaron Kaichi)	63.80
Case No. 85-351	(Dr. Leslie Ito)	41.98
Case No. 85-351	(Radiology Associates, Inc.)	85.28
Case No. 85-354		250.00
Case No. 85-356		1,500.00
Case No. 85-357		200.00
Case No. 85-358		250.00
Case No. 85-362	(Kauai Veterans Memorial Hospital)	11.37
Case No. 85-362	(Waimea Clinic, Inc.)	5.42
Case No. 85-363		19.36
Case No. 85-363	(Kauai Medical Group)	10.84
Case No. 85-363	(Waimea Clinic, Inc.)	5.42
Case No. 85-363	(Kauai Veterans Memorial Hospital)	8.52
Case No. 85-363	(Dr. Mariano Torres)	5.42
Case No. 85-367		1,529.95
Case No. 85-367	(Maui Memorial Hospital)	177.73
Case No. 85-367	(Dr. John F. Mills)	68.64
Case No. 85-368		150.00
Case No. 85-373		197.38
Case No. 85-374		500.00
Case No. 85-375		1,000.00
Case No. 85-375	(Queen's Medical Center)	84.00
Case No. 85-377		2,296.01
Case No. 85-378		150.00
Case No. 85-378	(Dr. Gene Doo)	57.72
Case No. 85-379		500.00
Case No. 85-380		750.00
Case No. 85-381		250.00
Case No. 85-382		750.00
Case No. 85-387		500.00

Case No. 85-387	(Kona Hospital)	2,555.28
Case No. 85-388		1,721.94
Case No. 85-393		250.00
Case No. 85-394		760.00
Case No. 85-394	(Kona Hospital)	203.00
Case No. 85-394	(State of Hawaii Emergency Ambulance Service)	120.00
Case No. 85-394	(West Hawaii Imaging Services, Inc.)	39.00
Case No. 85-394	(Islands Emergency Medical Service, Inc.)	178.11
Case No. 85-398		967.20
Case No. 85-400		50.00
Case No. 85-402		40.00
Case No. 85-402	(Dr. Richard Rasmussen)	76.60
Case No. 85-402	(Dr. Howard Shimokawa)	60.00
Case No. 85-402	(Dr. Randall Yee)	238.64
Case No. 85-405		33.30
Case No. 85-408		655.71
Case No. 85-410		100.00
Case No. 85-412		1,500.00
Case No. 85-414		250.00
Case No. 85-424		750.00
Case No. 85-424	(Maui Memorial Hospital)	75.05
Case No. 85-424	(The Maui Medical Group, Inc.)	182.26
Case No. 85-424	(Dr. Charles T. Mitchell)	68.64
Case No. 85-427		50.00
Case No. 85-428		50.00
Case No. 85-434		1,732.40
Case No. 85-436		620.77
Case No. 85-438		976.00
Case No. 85-440		900.00
Case No. 85-446		972.48
Case No. 85-449		439.86
Case No. 85-457		1,500.00
Case No. 85-459		161.00
Case No. 85-462		50.00
Case No. 85-463		43.00
Case No. 85-468		100.00
Case No. 85-468	(Hilo Hospital)	105.25
Case No. 85-471		1,049.92
Case No. 85-475		2,670.46
Case No. 85-476		500.00
Case No. 85-493		497.46
Case No. 85-493	(Maui Memorial Hospital)	152.84
Case No. 85-493	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 85-493	(Dr. Charles T. Mitchell)	54.91
Case No. 85-496		107.18
Case No. 85-501		750.00
Case No. 85-510		100.00
Case No. 85-515		750.00
Case No. 85-516		200.00
Case No. 85-527		750.00
Case No. 85-549		256.15

SECTION 2. The sums appropriated in Section 1 of this Act shall be deposited in the criminal injuries compensation fund to be used for payments as authorized by the criminal injuries compensation commission.

SECTION 3. All unexpended and unencumbered balances of the appropriations made by this Act as of the close of business on June 30, 1987, shall lapse into the general fund of the State.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

ACT 169

S.B. NO. 2474-86

A Bill for an Act Relating to the Children's Advocacy Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER CHILDREN'S ADVOCACY PROGRAM

§ -1 **Children's advocacy program; establishment, purpose.** (a) There is established a children's advocacy program within the judiciary.

(b) The purpose of the program shall be to:

- (1) Develop, achieve, and maintain interagency and interprofessional cooperation and coordination in the case management of intrafamilial and extrafamilial child sex abuse cases;
- (2) Obtain evidence useful for both criminal prosecution as well as protective action in civil proceedings;
- (3) Reduce to the absolute minimum the number of interviews of child sex abuse victims so as to minimize revictimization of the child;
- (4) Coordinate the therapeutic and treatment program for child sex abuse victims and their families;
- (5) Provide for a multidisciplinary team and case management approach which is focused first, on the alleged or suspected child sex abuse victim's needs and conditions; second, on the family members who are supportive of the child and whose interests are consistent with the best interests of the child; and third, on law enforcement and prosecutorial needs;
- (6) Provide for the training and continuing education of skilled professional interviewers of child sex abuse victims; and
- (7) Serve as the focus of information and referral for child sex abuse programs.

§ -2 **Definition of child sexual abuse.** For the purpose of this chapter, "child sexual abuse" means any of the offenses described under chapter 707, part V, when committed on a person under the age of sixteen years or as is set forth in paragraph (2) of the definition of harm in section 587-2.

§ -3 **Director, program administrative staff.** The program shall be headed by a director appointed by the administrative director of the courts. The director and administrative staff shall be subject to chapters 76 and 77.

§ -4 **Duties of the director.** The director shall:

- (1) Enter into agreements with police departments, departments of the prosecuting attorneys and county corporation counsels, the departments of the attorney general, health, social services and housing,

- and other public and private agencies, including agreements for the temporary assignment of appropriate personnel from each agency to the program;
- (2) Enter into contracts for the provision of specialized training and continuing education for interviewers of child sex abuse victims from both public and private agencies;
 - (3) Arrange for the conduct of interviews of child sex abuse victims at the child's home or other appropriate setting, to include the selection of the interviewer for each child sex abuse victim;
 - (4) Coordinate the therapeutic and treatment services by public and private agencies for child sex abuse victims;
 - (5) Coordinate the flow of information between the agencies responsible for criminal prosecution and those agencies responsible for protective action in civil proceedings;
 - (6) Arrange for the exchange of information, to include statistical data from public and private agencies involved in child sex abuse programs and issues;
 - (7) Develop recommendations and plans for action to assist the public and private agencies involved in child sex abuse cases; and
 - (8) Prepare and maintain records and reports for the program.

§ -5 Admissibility of evidence. Any evidence gathered at the center shall be gathered in such manner so as to be admissible as evidence at a judicial proceeding.

§ -6 Investigatory function. The center shall not have any law enforcement or prosecutorial functions, but shall investigate any alleged or suspected case of child sexual abuse in such a manner as to best ascertain the validity of the allegations or suspicions and if such are determined invalid, the underlying family problems, if any, which resulted in such invalid allegations or suspicions being made; provided that this provision shall not prevent the center from cooperating with any individual or public or private entity in such manner as the center determines to be in the best interests of the child."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 1986-1987, for the purposes of this Act. The sum appropriated shall be expended by the judiciary for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved May 17, 1986.)

ACT 170

H.B. NO. 122

A Bill for an Act Relating to Investigative Power of the Attorney General.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 28-2.5, Hawaii Revised Statutes, is amended to read as follows:

"[]§28-2.5[] **Investigations.** [When the attorney general deems it advisable or necessary in the public interest or when directed to do so by the governor, he shall conduct investigations of alleged violations of law. The attorney general, his deputy, or other officer designated by him, is empowered

pursuant to the rules of court to subpoena witnesses, examine them under oath, and require the production of any books, papers, documents or objects which he deems relevant or material to the inquiry. Upon application by the attorney general, obedience to the subpoena may be enforced by the circuit court in the county where the person subpoenaed resides or is found in the same manner as a subpoena issued by the clerk of a circuit court.] The attorney general shall investigate alleged violations of the law when directed to do so by the governor, or when the attorney general determines that an investigation would be in the public interest.

- (1) (A) When the department of the attorney general conducts a general investigation, the attorney general or a designated subordinate may subpoena witnesses, examine them under oath, and require the production of any books, papers, documents, or objects that are relevant to the inquiry.
- (B) When the department of the attorney general, serves a subpoena under subparagraph (A), it shall attach to the subpoena a short and plain statement of the recipient's rights and the procedures for enforcing and contesting the subpoena.
- (2) (A) However, when the matter under investigation is the subject of a civil or criminal adjudication, or when the attorney general or a designated subordinate, determines that an adjudication is more probable than not, the office of the attorney general shall be subject to the relevant rules of court and shall exercise subpoena powers no different than those available to the probable opposing party.
- (B) Upon application by the attorney general, obedience to subpoenas issued by the department of the attorney general may be enforced by the circuit court in the county where the person subpoenaed resides or is found."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

ACT 171

H.B. NO. 1727-86

A Bill for an Act Relating to Traffic Violations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-1, Hawaii Revised Statutes, is amended by renumbering it as Section 291-2, Hawaii Revised Statutes.

"§291-[1]2 Reckless driving of vehicle or riding of animals; penalty. Whoever operates any vehicle or rides any animal recklessly in disregard of the safety of persons or property is guilty of reckless driving of vehicle or reckless riding of an animal, as appropriate, and shall be fined not more than \$1,000 or imprisoned not more than one year or both."

SECTION 2. Chapter 291, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

"§291-1 Definitions. As used in this part:

"Intoxicating liquor" means the same as the term is defined in section 281-1.

"Public street, road, or highway" includes the entire width, including beam and shoulder, of every road, alley, street, way, lane, trail, highway, bikeway, bridge, when any part thereof is open for use by the public, including any bicycle lane, bicycle path, bikeway, controlled access highway, laned roadway, roadway, or street, as defined in section 291C-1, and any public highway, as defined in section 264-1.

"Scenic lookout" includes any area within or adjoining a public street, road, or highway which is intended for use by motorists as a stopping or parking area attendant to the enjoyment of the surrounding scenery or a view."

SECTION 3. Section 291-3.1, Hawaii Revised Statutes, is amended to read as follows:

"[] §291-3.1[] Consuming or possessing intoxicating liquor while operating motor vehicle. (a) No person shall consume any intoxicating liquor while operating a motor vehicle upon any public street, road, or highway.

(b) No person shall possess, while operating a motor vehicle upon any public street, road, or highway, any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially removed.

[(c) As used in this section, "intoxicating liquor" means the same as the term is defined in section 281-1.]

[(d)] (c) This section shall not apply to the living quarters of a trailer or camper.

[(e)] (d) Any person violating this section shall be guilty of a misdemeanor."

SECTION 4. Section 291-3.2, Hawaii Revised Statutes, is amended to read as follows:

"[] §291-3.2[] Consuming or possessing intoxicating liquor while a passenger in a motor vehicle. (a) No person shall consume any intoxicating liquor while a passenger in any motor vehicle upon any public street, road, or highway.

(b) No person shall possess, while a passenger in a motor vehicle upon any public street, road, or highway, any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially removed.

[(c) As used in this section, "intoxicating liquor" means the same as the term is defined in section 281-1.]

[(d)] (c) This section shall not apply to the living quarters of a trailer or camper.

[(e)] (d) Any person violating this section shall be guilty of a petty misdemeanor."

SECTION 5. Section 291-3.3, Hawaii Revised Statutes, is amended to read as follows:

"[] §291-3.3[] Storage of opened container containing intoxicating liquor or consumption at scenic lookout. (a) No person shall keep in a motor vehicle, when such vehicle is upon any public street, road, or highway[,] or at any scenic lookout, any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially removed or fully removed, unless such container is

kept in the trunk of the vehicle, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers.

(b) [As used in this section, "intoxicating liquor" means the same as the term is defined in section 281-1.] No person shall consume any intoxicating liquor at any scenic lookout.

(c) [This] Subsection (a) of this section shall not apply to a recreational or other vehicle not having a separate trunk compartment, or to the living quarters of a trailer or camper.

(d) Any person violating this section shall be guilty of a violation."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 172

H.B. NO. 1959-86

A Bill for an Act Relating to the Juvenile Justice Interagency Board.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571D-1, Hawaii Revised Statutes, is amended as follows:

"§571D-1 Juvenile justice interagency board. There is established within the department of the attorney general for administrative purposes the juvenile justice interagency board, consisting of nine members which shall include a police chief of one of the counties, [a senior judge of the family court,] the prosecuting attorney of a county, a representative from a private social¹ agency, and two additional members, all appointed by the governor as provided in section 26-34, and[,] the superintendent of education, the public defender, [and] the director of social services, and the senior judge of the first circuit family court as ex officio members. The composition of the board shall include a resident member from each county in the State.

The attorney general shall designate the executive secretary of the board."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

Note

1. Prior to amendment, "service" appeared here.

ACT 173

H.B. NO. 1993-86

A Bill for an Act Relating to Exceptions to the State Tort Liability Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 662-15, Hawaii Revised Statutes, is amended to read as follows:

"§662-15 Exceptions. This chapter shall not apply to:

- (1) Any claim based upon an act or omission of an employee of the State, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state officer or employee, whether or not the discretion involved has been abused;
- (2) Any claim arising in respect of the assessment or collection of any tax, or the detention of any goods or merchandise by law enforcement officers;
- (3) Any claim for which a remedy is provided elsewhere in the laws of the State;
- (4) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;
- (5) Any claim arising out of the combatant activities of the Hawaii national guard and Hawaii state guard during time of war[.], or during the times the Hawaii national guard is engaged in federal service pursuant to sections 316, 502, 503, 504, or 505 of Title 32 of the United States Code;
- (6) Any claim arising in a foreign country[.]; or
- (7) Any claim arising out of the acts or omissions of any boating enforcement officer appointed under section 267-6."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

ACT 174

H.B. NO. 1995-86

A Bill for an Act Relating to Drug Product Selection.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 328-96, Hawaii Revised Statutes, is amended to read as follows:

"§328-96 Drug formulary. (a) The board shall adopt rules, pursuant to chapter 91, for the establishment and maintenance of a state drug formulary of equivalent drug products, and to effectuate the purpose of this part[.]; except that the board may, without regard to chapter 91, establish in the formulary equivalent drug products that the Commissioner of Food and Drugs, United States Food and Drug Administration, has approved as safe and effective and has determined to be therapeutically equivalent. The formulary shall list all drug

products that the Commissioner of Food and Drugs, United States Food and Drug Administration, has approved as safe and effective[,] and has determined to be therapeutically equivalent. The formulary may list additional drug products that are determined by the board to meet requirements adequate to assure product quality and therapeutic equivalence. The formulary may delete approved drugs upon a finding that product quality or therapeutic equivalency or bioequivalency, as appropriate, is not adequately assured.

(b) The formulary may be changed, added to, or deleted from as the board deems appropriate. Any person who requests that any change be made or that a generic name or brand name drug be included or added to or deleted from the formulary shall have the burden of proof to show cause why the change, inclusion, addition, or deletion should be made.

[(b)] (c) The board shall provide for revision or supplementation of the formulary as necessary but not less than annually. [The formulary shall be adopted by the board no later than January 1, 1981.]

[(c)] (d) The department of health shall provide for distribution of the formulary [and], revisions, and supplements to all dispensers and prescribers licensed and practicing in this State and to other appropriate individuals. The department of health may establish fees to be charged to persons who receive the formulary [and], revisions[,], and supplements. The amounts of the fees charged for the formulary [and], revisions, and supplements shall be approximately the same as the costs of producing and distributing the formulary [and], revisions[,], and supplements.

[(d)] (e) The department of health shall provide for public education regarding the provisions of this part and shall monitor the effects of this part."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved May 17, 1986.)

ACT 175

H.B. NO. 1998-86

A Bill for an Act Relating to Spilling Loads on Highways.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291C-131, Hawaii Revised Statutes, is amended to read as follows:

"§291C-131 Spilling loads on highways[.]; penalties. (a) No vehicle shall be moved on any highway, unless [such] the vehicle is so constructed, covered, or loaded as to prevent any of its load other than clear water or feathers from live birds from dropping, sifting, leaking, blowing, spilling, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a highway in cleaning or maintaining the highway.

(b) No vehicle shall be driven or moved on any highway when any load thereon is not entirely within the body of the vehicle; provided[, however,] that this prohibition shall not apply if the load is securely fastened by means of clamps, ropes, straps, cargo nets, or other suitable mechanical device to prevent such load from dropping onto the highway or from shifting in any manner and,

further, no vehicle shall be operated on any highway with any load thereon projecting beyond the extreme width of the vehicle.

(c) Vehicles carrying agricultural produce from fields during harvesting shall be exempt from the requirements of this section but the owner of the vehicle must provide for the reasonable removal of all such produce spilled or dropped on the highway.

(d) No vehicle shall be driven or moved on any highway with any load if the load is not entirely covered by a cargo net, tarpaulin, canopy, or other material designed to cover the load to prevent the load from escaping from the vehicle, where the load consists partially or entirely of loose paper, loose rubbish, plastics, and empty cartons.

(e) Violations of this section shall subject the owner or driver of the vehicle, or both, to the following penalties without possibility of probation or suspension of sentence except paragraph (1)(A):

(1) For a first violation, by:

(A) Suspension of the vehicle registration or suspension of the license of the driver, or both, for five working days;

(B) A fine of not less than \$100 and not more than \$500.

(2) For a second violation involving a vehicle previously cited under this section, within one year:

(A) Suspension of the vehicle registration or suspension of the license of the driver, or both, for not less than five working days but not more than ten working days; and

(B) A fine of not less than \$250 and not more than \$500.

(3) For a third or subsequent violation involving a vehicle previously cited under this section within one year:

(A) Suspension of the vehicle registration or suspension of the license of the driver, or both, for a period of thirty calendar days; and

(B) A fine of not less than \$500 and not more than \$1,000.

In imposing a fine under this subsection, the court, in its discretion, may apportion payment of the fine between the driver of the vehicle and the owner of the vehicle according to the court's determination of the degree of fault for the violation.

For the purposes of this subsection, a truck-trailer combination and tractor-semitrailer combination, as they are defined in section 286-2, shall be considered as one vehicle."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on October 1, 1986.

(Approved May 17, 1986.)

ACT 176

H.B. NO. 1999-86

A Bill for an Act Relating to Medical Records.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 622-58, Hawaii Revised Statutes, is amended to read as follows:

“[[]§622-58[]] **Retention of medical records.** (a) Medical records may be computerized or minified by the use of microfilm or any other similar photographic process; provided that the method used creates [a permanent, unaltered] an unalterable record. The health care provider shall retain medical records in the original or reproduced form for a minimum of seven years after the last data entry except in the case of minors whose records shall be retained during the period of minority plus seven years after the minor reaches the age of majority.

(b) Records exempt from the retention requirement are: public health mass screening records; pupils' health records and related school health room records; preschool screening program records; communicable disease reports; and mass testing epidemiological projects and studies records, including consents; topical fluoride application consents; psychological test booklets; laboratory copies of reports, pharmacy copies of prescriptions, patient medication profiles, hospital nutritionists' special diet orders, and similar records retained separately from the medical record but duplicated within it; social workers' case records; and diagnostic or evaluative studies for the department of education or other state agencies.

(c) X-ray films, electro-encephalogram tracings, and similar imaging records shall be retained for at least seven years, after which they may be presented to the patient or destroyed; provided that interpretations or separate reports of x-ray films, electro-encephalogram tracings, and similar imaging records shall be subject to subsection (e).

(d) Medical records may be destroyed after the seven-year retention period or after minification, in a manner that will preserve the confidentiality of the information in the record; provided that the health care provider retains basic information from each record destroyed. Basic information from the records of a physician or surgeon shall include[, but not be limited to,] the patient's name and birthdate, a list of dated diagnoses and intrusive treatments, and a record of all drugs prescribed or given. Basic information from the records of a health care facility, as defined in section [323D-41(4),] 323D-2, shall include[, but not be limited to,] the patient's name and birthdate, dates of [admissions and discharges,] admission and discharge, names of [responsible] attending physicians, [records of all diagnoses,] final diagnosis, [operations, and special study results,] major procedures performed, operative reports, pathology reports, and discharge summaries.

(e) The health care provider, or the health care provider's successor, shall be liable for the preservation of basic information from the medical record for twenty-five years after the last entry, except in the case of minors, whose records shall be retained during the period of minority plus twenty-five years after the minor reaches the age of majority. If the health care provider is succeeded by another entity, the burden of compliance with this section shall rest with the successor. [The department of health shall adopt rules pursuant to chapter 91 governing the disposal of medical records when a health care provider ceases activity without a successor; provided that the rules shall be in keeping with the intent of this section.] Before a provider ceases operations, the provider shall make immediate arrangements, subject to the approval of the department of health, for the retention and preservation of the medical records in keeping with the intent of this section.

(f) For the purposes of this section, the term “health care provider” [is] means as defined in section 671-1.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

ACT 177

H.B. NO. 2001-86

A Bill for an Act Relating to Domiciliary Care.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 3 of Act 272, Session Laws of Hawaii 1985, is amended to read as follows:

"SECTION 3. Section 46-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

(d) [In areas zoned for residential use, neither] Neither this section nor any other law, county ordinance, or rule shall prohibit group living in facilities licensed by the State as provided for under section 321-15.6 for persons, including the mentally ill, the elderly, the handicapped, the developmentally disabled, or the totally disabled persons, who are not related to the home operator or facility staff; provided that such group living facilities meet all applicable county requirements, not inconsistent with the intent of this subsection and including building height, setback, maximum lot coverage, parking, and floor area requirements. For purposes of this section, "mentally ill person" means a mentally ill person as defined under section 334-1; "elderly person" means an elderly person as defined under section 359-52; "handicapped person" means a handicapped individual as defined under section 515-2; "developmentally disabled person" means a person suffering from developmental disabilities as defined under section 333E-2; and "totally disabled person" means a person totally disabled as defined under section 235-1."

SECTION 2. Section 321-15.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The director shall adopt rules regarding adult residential care homes in accordance with chapter 91 which shall be designed to:

- (1) Protect the health, safety, and civil rights of persons residing in facilities regulated;
- (2) Provide for the licensing of facilities providing domiciliary care; provided that [in areas zoned for residential use,] the rules shall allow group living in an adult residential care home of up to five persons, including the mentally ill, the elderly, the handicapped, the developmentally disabled, or the totally disabled persons who are not related to the home operator or facility staff. For purposes of this section, "mentally ill person" means a mentally ill person as defined under section 334-1; "elderly person" means an elderly person as defined under section 359-52; "handicapped person" means a handicapped individual as defined under section 515-2; "developmentally disabled person" means a person suffering from developmental disabilities as defined under section 333E-2; and "totally disabled person" means a person totally disabled as defined under section 235-1;
- (3) Comply with applicable federal laws and regulations of Title XVI of the Social Security Act, as amended; and
- (4) Provide penalties for the failure to comply with any rule."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

ACT 178

H.B. NO. 2002-86

A Bill for an Act Relating to Domiciliary Care.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 1 of Act 272, Session Laws of Hawaii 1985, is amended to read as follows:

"SECTION 1. The purpose of this Act is to place all licensing functions relative to domiciliary care facilities in one state agency, the department of health. The objective is to increase cost efficiency in carrying out the licensing function in regard to domiciliary care facilities. This Act combines within one licensed group, all facilities currently licensed as adult family boarding homes, family care homes, and residential care facilities[, and independent group residences]. This new licensing group is to be called adult residential care homes."

SECTION 2. Section 4 of Act 272, Session Laws of Hawaii 1985, is amended to read as follows:

"SECTION 4. Section 321-11, Hawaii Revised Statutes, is amended to read as follows:

§321-11 Subjects of health [regulations,] rules, generally. The department of health pursuant to chapter 91 may [make such regulations] adopt rules as it deems necessary for the public health and safety respecting:

- (1) Nuisances, foul or noxious odors, gases, vapors, waters in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease, within the respective districts of the State, and on board any vessel;
- (2) Adulteration and misbranding of food or drugs;
- (3) Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, watercourses, areas, and alleys;
- (4) Privy vaults and cesspools;
- (5) Fish and fishing;
- (6) Interments and dead bodies;
- (7) Disinterments of dead human bodies, including the exposing, disturbing, or removing of such bodies from their place of burial, or the opening, removing, or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
- (8) Cemeteries and burying grounds;
- (9) Laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, baker-

ies, butchershops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where foods or beverages are canned or bottled for public consumption or sale; provided that nothing in this chapter shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where the laundering or sterilization is done in an efficient and sanitary manner;

- (10) Hospitals, freestanding surgical outpatient facilities, skilled nursing facilities, intermediate care facilities, adult residential care homes, special treatment facilities and programs, home health agencies, independent group residences, but excluding youth shelter facilities unless clinical treatment of mental, emotional, or physical disease or handicap is a part of the routine program or constitutes the main purpose of the facility, as defined in section 346-16 under "child care institution";
- (11) Hotels, rooming houses, lodging houses, apartment houses, tenements, and residences for persons with developmental disabilities including, but not limited to, those built under federal funding;
- (12) Laboratories;
- (13) Any place or building where noisome or noxious trades or manufactures are carried on, or intended to be carried on;
- (14) Milk;
- (15) Poisons and hazardous substances, the latter term including, but not limited to, any substance or mixture of substances which (A) is corrosive, (B) is an irritant, (C) is a strong sensitizer, (D) is inflammable, or (E) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;
- (16) Pig and duck ranches;
- (17) Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;
- (18) Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use;
- (19) Foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;
- (20) Devices as defined in section 328-1;
- (21) Sources of ionizing radiation;
- (22) Medical examination, vaccination, revaccination, and immunization of school children. No child shall be subjected to such medical examination, vaccination, revaccination, or immunization, whose parent or guardian shall in writing object thereto on grounds that such requirements are not in accordance with the religious tenets of an established church of which he is a member or adherent, but no such objection shall be recognized when, in the opinion of the

department there is danger of an epidemic from any communicable disease;

- (23) Disinsectization of aircraft entering or within the State as may be necessary to prevent the introduction, transmission, or spread of disease or the introduction or spread of any insect or other vector of significance to health;
- (24) Fumigation. The process by which substances emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents, or other pests, which, in the opinion of the department may be lethal, poisonous, noxious, or dangerous to human life; and
- (25) Ambulances and ambulance equipment.

The department may require such certificates, permits, or licenses as it may deem necessary adequately to regulate the conditions or businesses referred to in this section."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. The effective date of Act 272, Session Laws of Hawaii 1985, notwithstanding, this Act shall take effect upon its approval.

(Approved May 17, 1986.)

ACT 179

H.B. NO. 2003-86

A Bill for an Act Relating to Poisons.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to clarify the definition of poison and to properly place the prescription requirements for drugs in chapter 328, Hawaii Revised Statutes.

SECTION 2. Chapter 328, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§328- Record of prescriptions. Every licensed physician, druggist, or apothecary, who compounds, sells, or delivers any prescription containing any poisonous drug, or substance deleterious to human life, to be used as medicine, shall enter upon his books the prescription written out in full, with the date thereof, with his own name appended thereto, or the name of the physician who prescribed the same, and the person to whom the same was delivered. No such prescription shall be compounded, sold, or delivered, unless the name of the person compounding, selling, or delivering the same, or the name of the physician prescribing the same, be appended to the prescription in full, and every such prescription shall be preserved for a period of not less than five years. The books and prescriptions shall be subject at all times to the inspection of the director of health or his agent."

SECTION 3. Chapter 328, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§328- Out-of-state prescriptions. An original prescription written by an out-of-state practitioner within the confines of his license and in accordance with Hawaii statutory law and regulation, excluding narcotics and habit-forming drugs, may be filled but once and only if filled within ninety days of the date of

the original prescription. The pharmacist filling the prescription shall demand proper identification from the person whose name appears on the prescription prior to filling the prescription. The pharmacist who fills an out-of-state prescription is responsible in case the prescription is not written in the form prescribed by law and regulation. The pharmacist shall properly identify the prescriptions as "Out-of-State Filled" together with the date of filling and the local address of the person whose name appears on the prescription. Filled out-of-state prescriptions are to be kept in a special file for two years."

SECTION 4. Section 328-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"() "Out-of-state practitioner" includes a physician, surgeon, osteopathic physician and surgeon, dentist, podiatrist, veterinarian, or any other person who is authorized to prescribe drugs to patients under the applicable laws of any state of the United States."

SECTION 5. Section 330-1, Hawaii Revised Statutes, is amended to read as follows:

"§330-1 Definition of poison. The term "poison", as used in this chapter, in chapter 461, and in the laws relating to the department of health, includes any chemical, drug, or preparation which has properties which are commonly considered poisonous or which is capable of affecting the human organism in such a way and to such an extent that its possession, sale, transfer, use, or storage shall be found by the department in its rules [and regulations] to require regulation for the public health and safety. Poison does not include any drug for which a prescription is required by state or federal law."

SECTION 6. Section 330-5, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 330-6, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 330-7, Hawaii Revised Statutes, is repealed.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 10. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 180

H.B. NO. 2011-86

A Bill for an Act Relating to Employment Security.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 383-62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) [Each employer shall pay contributions equal to three per cent of wages paid by him during each calendar year with respect to employment except as otherwise prescribed in this part.] Except as otherwise provided in this section, each employer shall pay contributions determined in accordance with sections 383-66 and 383-68.

Notwithstanding any other provision of this part to the contrary, for the calendar years 1977 and 1978 each employer (except any employer making payments instead of contributions pursuant to subsection (b) or (d) [of this section]) shall pay contributions equal to three and one-half per cent (3.5%) of wages paid by him during such calendar years."

SECTION 2. Section 383-65, Hawaii Revised Statutes, is amended to read as follows:

"§383-65 Charges and noncharges for benefits. (a) Except as otherwise provided in [this section,] subsection (b), benefits paid to an individual shall be charged against the accounts of his base period employers and the amount of benefits so chargeable against each base period employer's account shall bear the same ratio to the total benefits paid to the individual as the base period wages paid to the individual by the employer bear to the total amount of base period wages paid to the individual by all of his base period employers. Benefits paid in benefit years beginning after June 30, 1963, shall be charged to employers' accounts in the calendar year in which the benefits are paid.

(b) Benefits paid to an individual shall not be charged against the account of any of the individual's base period employers on a contributory plan under section 383-61 when such benefits are:

(1) Paid to an individual during any benefit year beginning October 5, 1986, and thereafter, if the individual:

(A) Left work voluntarily without good cause; or

(B) Was discharged for misconduct connected with the individual's work; or

(C) Left work voluntarily for good cause not attributable to the employer.

The chargeability of benefits to an employer's account shall be determined in accordance with section 383-94 and other applicable provisions of this chapter, or as may be otherwise specified by the department.

[(b)] (2) [Benefits paid] Paid to an individual, who, during his base period, earned wages for part-time employment with an employer, [shall not be charged to the account of the employer] if [he] the employer continues to give the individual employment to the same extent while [he] the individual is receiving benefits as during the base period and the employer establishes such fact to the satisfaction of the director of labor and industrial relations.

[(c)] (3) [Benefits paid] Paid to an individual for the period [he] the individual is enrolled in and is in regular attendance at a vocational training or retraining course approved by the director pursuant to section 383-29 [shall not be charged to any of his base period employers].

[(d)] For the purposes of the arrangements in which the department will participate pursuant to section 383-106(b) only, "base period" as used in this section shall mean the base period of this or any other state applied to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws.]

(4) Paid to an individual under the extended benefits program, sections 383-168 to 383-174; except that one-half of the amount of such benefits which are based on services performed for a governmental

employer on a contributory plan shall be charged to the account of such employer.

- [(e)] (5) [Benefits paid] Paid to an individual who qualifies to receive benefits by meeting the minimum earnings and employment requirements only by combining [his] the individual's employment and wages earned in two or more states [shall not be charged to the reserve account of any base period employer on a contributory plan within this State].
- [(f)] (6) [Any benefit] Benefits overpaid to a claimant as a result of ineligibility or disqualification under sections 383-29 and 383-30 [shall not be charged to the reserve account of a base period employer on a contributory plan] unless such overpayment resulted from the employer's failure to furnish information as required by this chapter or the rules of the department.
- [(g)] (7) [Benefits paid] Paid to an individual with respect to wages paid for previously uncovered services as defined in section 383-22(b) or for services for which an exclusion was granted pursuant to section 383-78 [shall not be charged to the account of any of such individual's base period employers], but only to the extent that the fund is reimbursed for such benefits by the federal government pursuant to section 121 of Public Law 94-566.

(c) The amount of noncharged benefits shall bear the same ratio to the total benefits paid to the individual as the base period wages paid to the individual by the employer or employers not charged bear to the total amount of base period wages paid to the individual by all of the individual's base period employers. The noncharging provisions of subsection (b) shall not apply to governmental employers or nonprofit organizations making payments in lieu of contributions under section 383-62.

(d) For the purposes of the arrangements in which the department will participate pursuant to section 383-106(b) only, "base period" as used in this section means the base period of this or any other state applied to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

ACT 181

H.B. NO. 2048-86

A Bill for an Act Relating to License Denial Appeals.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 91, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"§91-13.1 Administrative review of denial or refusal to issue license or certificate of registration. Except as otherwise provided by law, any person aggrieved by the denial or refusal of any board or commission listed in section 26H-4 to issue a license or certificate of registration, shall submit a request for a contested case hearing pursuant to chapter 91 within sixty days of the date of the

refusal or denial. Appeal to the circuit court under section 91-14, or any other applicable statute, may only be taken from a board or commission's final order."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 182

H.B. NO. 2111-86

A Bill for an Act Relating to Contractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 444-2, Hawaii Revised Statutes, is amended to read as follows:

"§444-2 Exemptions. This chapter shall not apply to:

- (1) An officer or employee of the United States, the State, or any political subdivision [if the project or operation is performed by employees thereof;] while in the performance of their governmental duties;
- (2) Any person acting as a receiver, trustee in bankruptcy, personal representative, or any other person acting under any order or authorization of any court;
- (3) A person who sells or installs any finished products, materials, or articles of merchandise which are not actually fabricated into and do not become a permanent fixed part of the structure, or to the construction, alteration, improvement, or repair of personal property;
- (4) Any project or operation for which the aggregate contract price for labor, materials, and all other items is less than \$100. This exemption shall not apply in any case wherein the undertaking is only a part of a larger or major project or operation, whether undertaken by the same or a different contractor or in which a division of the project or operation is made in contracts of amounts less than \$100 for the purpose of evading this chapter or otherwise;
- (5) A registered architect or professional engineer acting solely in [his] the person's professional capacity;
- (6) Any person who engages in the activities herein regulated as an employee with wages as the person's sole compensation;
- (7) Owners or lessees of property who build or improve residential, farm, industrial, or commercial buildings or structures on [such] property for their own use, or for use by their grandparents, parents, siblings, or children and do not offer [such] the buildings or structures for sale or lease. In all actions brought under this paragraph, proof of the sale or lease, or offering for sale or lease, of [such] the structure within one year after completion is ["prima facie"] prima facie evidence that the construction or improvement of [such] the structure was undertaken for the purpose of sale or lease; provided that this shall not apply to residential properties sold

- or leased to employees of the owner or lessee; provided further that in order to qualify for this exemption the owner or lessee must register for the exemptions as provided in section 444-9.1; or
- (8) Any copartnership or joint venture if all members thereof hold licenses issued under this chapter."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

ACT 183

H.B. NO. 2116-86

A Bill for an Act Relating to Psychologists.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 465-1, Hawaii Revised Statutes, is amended to read as follows:

"§465-1 Definitions. As used in this chapter[:], unless the context otherwise requires:

"Board" means the board of psychology.

"Director" means the director of commerce and consumer affairs.

"Psychologist" means a person who engages in the practice of psychology [as defined in this section].

[A person practices "psychology" who performs] "Practice of psychology" means the performance of any professional service which consists of[,] and requires[, and is limited to] the application of psychological principles, theories, techniques, and instruments for the purpose of assessment, diagnosis, and treatment of [significant] behavioral, emotional, [and] mental, or behavioral health problems or disorders as defined by [the most current] a diagnostic manual [of the American Psychiatric Association:] acceptable to the board and defined in its rules; and for the purpose of the assessment, diagnosis, and rehabilitation of organic brain syndromes."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

ACT 184

H.B. NO. 2129-86

A Bill for an Act Relating to Property Abandoned or Seized on State Land.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§171- Disposition of abandoned or seized property. (a) The department may sell, donate, or otherwise dispose of property abandoned or seized on land owned by the State upon compliance with the requirements of this section.

(b) The department shall send notice by certified mail, at least thirty days prior to disposition of the abandoned or seized property, to the address of the owner of said property abandoned or seized if the owner is known or can be determined. The notice shall apprise the owner of the identity and location of the property abandoned or seized and of the intent of the department to sell, donate, or otherwise dispose of the property. Where the identity or the address of the owner is unknown or cannot be determined, the notice shall be posted on the premises where the property was abandoned or seized.

(c) The department shall also advertise the disposition at least once in a newspaper of general circulation in the county where the property was abandoned or seized; provided that the disposition shall not take place less than five days after advertising the intent to dispose of the property.

(d) The sale of property abandoned or seized shall be by public auction through oral tenders in the county where the property was abandoned or seized. Where no bid is received, the property may be sold by negotiation, disposed of or sold as junk, kept by the department, or donated to any other government agency or a charitable organization.

(e) Any person entitled to the property abandoned or seized may repossess the property prior to its disposition upon proof of entitlement and payment of all unpaid rent, debts, charges, and fines owing and all handling, storage, appraisal, advertising, and any other expenses incurred in connection with the proposed disposition of the property abandoned or seized.

(f) The requirement of advertisement and public auction shall not apply when the value of the property abandoned or seized is less than \$100. In that event, the property may be sold by negotiation, disposed of or sold as junk, kept by the department, or donated to any other government agency or a charitable organization.

(g) The proceeds of the sale at public auction of property abandoned or seized, after deduction of all charges and fines and all expenses of handling, storage, appraisal, advertising, and other sale expenses, shall be held in trust for the owner of the property for thirty days, after which time the proceeds shall be paid into the general or appropriate special fund.

(h) The remedies available to the owner of abandoned or seized property are limited to those provided in subsections (e) and (g) of this section. The State, its officers, employees, and agents shall not be liable to the owner of property abandoned or seized because of any disposition of the property made pursuant to this section.

(i) For purposes of this section, "department" includes the department of land and natural resources and any other state department or agency which manages land owned or controlled by the State."

SECTION 2. Section 171-1, Hawaii Revised Statutes, is amended by adding new definitions to be appropriately inserted and to read as follows:

"Abandoned property" or "property abandoned" means any and all property, including personal property, items, materials, equipment, fixtures, motor vehicles, or vessels, that has been left unattended on land owned or controlled by the State without authority for a continuous period of more than twenty-four hours.

"Seized property" or "property seized" means any and all property, including personal property, items, materials, equipment, fixtures, motor vehicles, or vessels, that has been seized by the State as the result of an unauthorized use of or encroachment on land owned or controlled by the State."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 185

H.B. NO. 2166-86

A Bill for an Act Relating to Blind or Visually Handicapped Concessionaires.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 298, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§298- Blind or visually handicapped concessionaires. (a) Each secondary public school, upon the approval of the principal and the district superintendent, may allow on the premises vending machines operated as a concession; provided that the concession shall be operated only by a blind or visually handicapped person, as defined in sections 235-1, 347-1 and 347-2. The location and operation of the vending machines and the items dispensed shall be approved by the department.

(b) The concession shall be awarded and operated under chapter 102; provided that the selection of a concessionaire shall be in accordance with departmental guidelines and shall take into consideration the price of the items sold and any revenue-sharing arrangement made with school-related program organizations.”

SECTION 2. Section 102-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The bidding requirements of subsection (a) shall not apply to concessions or space on public property set aside for the following purposes:

- (1) For operation of ground transportation services at airports;
- (2) For lei vendors;
- (3) For airline and aircraft operations;
- (4) For coin-operated vending machines, except coin-operated insurance vending machines; and vending machines located at public schools operated by blind or visually handicapped persons in accordance with section 298- ;
- (5) For [operations] operation of concessions set aside without any charge;
- (6) For [operations] operation of concessions [for the use of] by handicapped persons, or blind persons; except concessions operated in the public schools by blind or visually handicapped persons in accordance with section 298- ;
- (7) For operation of concessions on permits revocable on notice of thirty days or less; provided, that no such permits shall be issued unless the premises covered therein shall no longer be used for the existing purposes and that the permit is issued as a temporary use of the premises until the governmental agency proceeds to apply the premises for the new use thereof; and provided, further, that no permits shall be issued for more than one year.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 186

H.B. NO. 2168-86

A Bill for an Act Relating to Environmental Impact Statements.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 343-2, Hawaii Revised Statutes, is amended to read as follows:

“§343-2 Definitions. As used in this chapter unless the context otherwise requires:

[(1)] “Acceptance” means a formal determination that the document required to be filed pursuant to section 343-5 fulfills the definition of an environmental impact statement, adequately describes identifiable environmental impacts, and satisfactorily responds to comments received during the review of the statement.

[(2)] “Action” means any program or project to be initiated by any agency or applicant.

[(3)] “Agency” means any department, office, board, or commission of the state or county government which is a part of the executive branch of that government.

[(4)] “Applicant” means any person who, pursuant to statute, ordinance, or rule, officially requests approval for a proposed action.

[(5)] “Approval” means a discretionary consent required from an agency prior to actual implementation of an action.

[(6)] “Council” means the environmental council.

[(7)] “Discretionary consent” means a consent, sanction, or recommendation from an agency for which judgment and free will may be exercised by the issuing agency, as distinguished from a ministerial consent.

[(8)] “Environmental assessment” means a written evaluation to determine whether an action may have a significant effect.

[(9)] “Environmental impact statement” or “statement” means an informational document prepared in compliance with the rules adopted under section 343-6 and which discloses the environmental effects of a proposed action, effects of a proposed action on the economic and social welfare of the community and State, effects of the economic activities arising out of the proposed action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects.

“Negative declaration” means a determination based on an environmental assessment that the subject action will not have a significant effect and, therefore, will not require the preparation of an environmental impact statement.

[(10)] “Office” means the office of environmental quality control.

[(11)] “Person” includes any individual, partnership, firm, association, trust, estate, private corporation, or other legal entity other than an agency.

[(12)] "Significant effect" means the sum of effects on the quality of the environment, including actions that irrevocably commit a natural resource, curtail the range of beneficial uses of the environment, are contrary to the State's environmental policies or long-term environmental goals as established by law, or adversely affect the economic or social welfare."

SECTION 2. Section 343-6, Hawaii Revised Statutes, is amended to read as follows:

"§343-6 Rules. (a) After consultation with the affected agencies, the council shall [make, amend, and repeal rules to implement this chapter. The adoption, amendment, and repeal of all rules shall be subject to chapter 91. At least one public hearing shall be held in each county prior to the final adoption, amendment, or repeal of such rules. The rules shall:] adopt, amend, or repeal necessary rules for the purposes of this chapter in accordance with chapter 91 including, but not limited to, rules which shall:

- (1) Prescribe the contents of an environmental impact statement;
- (2) Prescribe the procedures whereby a group of proposed actions may be treated by a single statement;
- (3) Prescribe procedures for the submission, distribution, review, and acceptance or nonacceptance of a statement;
- (4) Prescribe procedures for the applicant to appeal the nonacceptance of a statement to the environmental council;
- (5) Establish criteria to determine whether a statement is acceptable or not;
- (6) Establish procedures whereby specific types of actions, because they will probably have minimal or no significant effects on the environment, are declared exempt from the preparation of an assessment;
- (7) Prescribe procedures for informing the public of determinations that a statement is either required or not required, for informing the public of the availability of statements for review and comments, and for informing the public of the acceptance or nonacceptance of the statement[.]; and
- (8) Prescribe the contents of an environmental assessment.

(b) At least one public hearing shall be held in each county prior to the final adoption, amendment, or repeal of any rule."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

ACT 187

H.B. NO. 2202-86

A Bill for an Act Relating to Geothermal Resources.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 205-5.1, Hawaii Revised Statutes, is amended to read as follows:

"§205-5.1 Geothermal resource subzones. (a) Geothermal resource subzones may be designated within the urban, rural, agricultural, and conserva-

tion land use districts established under section 205-2. Only those areas designated as geothermal resource subzones may be utilized for geothermal development activities in addition to those uses permitted in each land use district under this chapter. Geothermal development activities may be permitted within urban, rural, agricultural, and conservation land use districts in accordance with this chapter. "Geothermal development activities" means the exploration, development, or production of electrical energy from geothermal resources.

(b) The board of land and natural resources shall have the responsibility for designating areas as geothermal resource subzones as provided under section 205-5.2; except that the total area within an agricultural district which is the subject of a geothermal mining lease approved by the board of land and natural resources, any part or all of which area is the subject of a special use permit issued by the county for geothermal development activities, on or before May 25, 1984, is [hereby] designated as a geothermal resource subzone for the duration of the lease. The designation of geothermal resource subzones shall be governed exclusively by this section and section 205-5.2, except as provided therein. The board shall adopt, amend, or repeal rules related to its authority to designate and regulate the use of geothermal resource subzones in the manner provided under chapter 91.

The authority of the board to designate geothermal resource subzones shall be an exception to those provisions of this chapter and of section 46-4 authorizing the land use commission and the counties to establish and modify land use districts and to regulate uses therein. The provisions of this section shall not abrogate nor supersede the provisions of chapters 182 and 183.

(c) The use of an area for geothermal development activities within a geothermal resource subzone shall be governed by the board within the conservation district and, except as herein provided, by state and county statutes, ordinances, and rules not inconsistent herewith within agricultural, rural, and urban districts, except that no land use commission approval or special use permit procedures under section 205-6 shall be required for the use of such subzones. In the absence of provisions in the county general plan and zoning ordinances specifically relating to the use and location of geothermal development activities in an agricultural, rural, or urban district, the appropriate county authority may issue a geothermal resource permit to allow geothermal development activities. "Appropriate county authority" means the county planning commission unless some other agency or body is designated by ordinance of the county council. Such uses as are permitted by county general plan and zoning ordinances, by the appropriate county authority, shall be deemed to be reasonable and to promote the effectiveness and objectives of this chapter. Chapters 177, 178, 182, 183, 205A, 226, 342, and 343 shall apply as appropriate. If provisions in the county general plan and zoning ordinances specifically relate to the use and location of geothermal development activities in an agricultural, rural, or urban district, the provisions shall require the appropriate county authority to conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91, on any application for a geothermal resource permit to determine whether the use is in conformity with the criteria specified in subsection (e) for granting geothermal resource permits.

(d) If geothermal development activities are proposed within a conservation district, then, after receipt of a properly filed and completed application, the board of land and natural resources shall conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91 to determine whether, pursuant to board regulations, a conservation district use

permit shall be granted to authorize the geothermal development activities described in the application. The board may, at any time after a contested case is requested, and after the parties have been determined, appoint a special master for the specific purpose of mediation. Prior to a contested case hearing, the board shall require parties to participate in a settlement conference conducted by the special master or his designee, neither of whom shall be a member of the board or its staff. The settlement conferences and mediation shall not extend beyond thirty days after the parties are determined, except upon the mutual agreement of all parties.

(e) If geothermal development activities are proposed within agricultural, rural, or urban districts and such proposed activities are not permitted users pursuant to county general plan and zoning ordinances, then after receipt of a properly filed and completed application, the appropriate county authority shall conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91 to determine whether a geothermal resource permit shall be granted to authorize the geothermal development activities described in the application. The appropriate county authority shall grant a geothermal resource permit if it finds that applicant has demonstrated by a preponderance of the evidence that:

- (1) The desired uses would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property; [and]
- (2) The desired uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection; and
- (3) That there are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to above.

Unless there is a mutual agreement to extend, a decision shall be made on the application by the appropriate county authority within six months of the date a complete application was filed; provided that if a contested case hearing is held, the final permit decision shall be made within nine months of the date a complete application was filed.

(f) Any other law to the contrary notwithstanding, including chapter 91, any appeal of a contested case hearing under this section shall be made upon the record directly to the supreme court for final decision; provided that for a contested case hearing under this section initiated after April 30, 1990, any appeal shall be made in conformity with chapter 91, including judicial review by the circuit court under section 91-14."

SECTION 2. Section 205-5.2, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The designation of any geothermal resource subzone may be withdrawn by the board of land and natural resources after proceedings conducted pursuant to [the provisions of] chapter 91. The board shall withdraw a designation only upon finding by a preponderance of the evidence that the area is no longer suited for designation; provided that the designation shall not be withdrawn for areas in which active exploration, development, production or distribution of electrical energy from geothermal sources is taking place."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

A Bill for an Act Relating to Sun Screening Devices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-21.3, Hawaii Revised Statutes, is amended by deleting the definition of "luminous reflectance".

[""Luminous reflectance" means the ratio of the amount of total visible light, expressed in percentages, which is reflected outward by the product or material to the amount of total visible light falling on the product or material.""]

SECTION 2. Section 291-21.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

- "(d) This section shall not apply to:
- (1) Rearview mirrors;
 - (2) Adjustable nontransparent sun visors which are mounted forward of the side windows and are not attached to the glazing material;
 - (3) Signs, stickers, or other materials which are displayed in a seven-inch square in the lower corner of the windshield farthest removed from the driver or signs, stickers, or other materials which are displayed in a five-inch square in the lower corner of the windshield nearest the driver;
 - (4) Rear trunk lid handle or hinges;
 - (5) Window wipers and window wiper motors;
 - (6) Transparent sun screening film materials which are installed, affixed, or applied along the top edge of the windshield so long as such materials do not encroach upon the AS-1 portion of the windshield as provided by FMVSS 205 and FMVSS 128;
 - (7) Sun screening devices for the front side wing vents and windows which, when used in conjunction with the glazing material have a light transmittance of no less than thirty-five per cent plus or minus three per cent [and a luminous reflectance of no more than twenty per cent plus or minus three per cent];
 - (8) Sun screening devices for side windows necessary for driving visibility which are to the rear of the driver and for rear windows necessary for driving visibility which, when used in conjunction with the glazing material, have a light transmittance of no less than thirty-five per cent plus or minus three per cent [and a luminous reflectance of no more than twenty per cent plus or minus three per cent];
 - (9) Side windows which are to the rear of the driver and rear windows on vans, minivans, trucks, or buses; provided that the vehicles are equipped with rearview mirrors on both sides;
- [(9) (10) Privacy drapes, curtains, or blinds, or any combination, installed on the interior of motor homes."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

ACT 189

H.B. NO. 2596-86

A Bill for an Act Relating to Mopeds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-24, Hawaii Revised Statutes, is amended to read as follows:

“§291-24 Motorcycles, and mopeds, noisy mufflers; penalty. Every motorcycle and moped moving under its own power on a public highway shall at all times be equipped with a muffler in constant operation to prevent any excessive or unusual noise and no such muffler or exhaust system shall be equipped with a cutout, bypass, or similar device. No person shall modify the exhaust system of a motorcycle or a moped in a manner which will amplify or increase the noise emitted by the motor of such motorcycle or moped above that emitted by the muffler originally installed on the motorcycle[.] or moped. A muffler is a device consisting of a series of chambers or baffle plates, or other mechanical design, for the purpose of receiving exhaust gas from the engine of the motorcycle[.] or moped, and effective in reducing noise.

Whoever violates this section shall be fined not more than \$100.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect ninety days after its approval.

(Approved May 17, 1986.)

ACT 190

S.B. NO. 1855-86

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Industrial Enterprises.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

SECTION 2. The legislature finds that the economy of the State continues to feel the effects of recent high unemployment and recessionary uncertainties of the national economy. The legislature further notes that the State's economy is highly concentrated in one or two sectors and diversification is needed to provide a broader business and industrial base for the State's economy and for the general welfare of its people. Persistent high interest rates for industrial enterprise borrowers create special and substantial obstacles to the raising of new capital and impede the creation of new industries to diversify the economic base of the State, to create new employment opportunities, to increase tax revenues, and to stimulate the inflow of new capital into the State. The legislature therefore finds that the establishment of new industries should be one of the main considerations in the issuance of special purpose revenue bonds.

The legislature further finds that a project with significant potential to stimulate new industry, support additional economic activity, and provide increased employment opportunities has been undertaken by the Cyanotech Corporation to develop a microalgae research, demonstration, and production

facility at the natural energy laboratory of Hawaii located at Ke-ahole Point, Kailua-Kona, Hawaii. Cyanotech Corporation also plans to develop facilities in the Ka'u District in the county of Hawaii.

The legislature finds and determines that the activity and facilities of Cyanotech Corporation constitute a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise. The issuance of special purpose revenue bonds authorized by this Act, to construct the facilities within the county of Hawaii, is in the public interest and for the public health, safety, and general welfare.

SECTION 3. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in one or more series in a total amount not to exceed \$3,000,000 for the purpose of assisting Cyanotech Corporation, a Nevada corporation or a partnership in which Cyanotech Corporation is a general partner, to finance the activity and facilities of Cyanotech Corporation within the county of Hawaii; provided that the facilities to be financed shall meet with the approval of the board of the natural energy laboratory of Hawaii, the county of Hawaii, and the department of land and natural resources.

SECTION 4. The special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 19, 1986.)

ACT 191

S.B. NO. 909

A Bill for an Act Relating to School Bus Contracts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 296-46.1, Hawaii Revised Statutes, is amended to read as follows:

"§296-46.1 School bus contracts. (a) Any law to the contrary notwithstanding, school bus contracts between the State and a private contractor may be extended for two years by mutual agreement; provided that the parties may agree to extend the contract for an additional two years thereafter. The compensation due to the contractor by the State for each extended year may be increased, but in an amount not to exceed five per cent of the previous year's compensation. In addition, the compensation due¹ the contractor by the State for any original or extended contract year may be increased by a reasonable amount for unanticipated inflationary increases in the cost of fuel. If the original contract between the State and a private contractor already includes an option to extend the contract period,² this subsection³ shall be applicable after the contract option is exercised.

(b) In the renegotiation for the extension of any contract, the contractor shall be notified at least three months in advance to prepare data and facts relating to fuel cost for the justification of an increase in amount for the new contract period.

(c) In the event a school is temporarily closed due to an unexpected disruption necessitating the closing of a school, the contractor and the State may enter into renegotiation for payments of fixed costs.

(d) The contract between the State and the contractor shall not include an age limitation on school bus vehicles. The serviceability of a vehicle shall be determined by chapter 286.

(e) The contract between the State and the contractor shall include a provision requiring the contractor to equip his vehicles with the signs and visual signals described in section 291C-95(d) and (g). The contract shall also include other provisions as may be deemed necessary by the State for the safety of school bus passengers[,] and shall include provisions requiring periodic refurbishment of school buses over ten years old."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1986.)

Notes

1. Prior to amendment "to" appeared here.
2. Prior to amendment "the provision" appeared here.
3. Underscoring missing.

ACT 192

H.B. NO. 326

A Bill for an Act Relating to Cruelty to Animals.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 711-1109, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of cruelty to animals if [he] the person intentionally, knowingly or recklessly:

- [(a) Overdrives, overloads, tortures, torments, deprives of necessary sustenance, or cruelly beats or needlessly mutilates, or kills, or causes or procures to be overdriven, overloaded, tortured, tormented or deprived of necessary sustenance, or to be cruelly beaten, or needlessly mutilated, or killed, any living creature;]
- (a) Overdrives, overloads, tortures, torments, cruelly beats or starves any animal or causes or procures the overdriving, overloading, torture, torment, cruel beating or starving of any animal;
- (b) Mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests;
- [(b) (c) Keeps [or], uses[;] or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock or other [creature] animal, and every person who encourages, aids or assists therein, or who permits or suffers any place to be so kept or used;
- [(c) (d) Carries or causes to be carried, in or upon any vehicle or other conveyance, any [creature,] animal in a cruel or inhumane manner; or

[(d)] (e) [Sets on foot, or instigates in or does any act towards] Assists
another in the [furtherance] commission of any act of cruelty to
[animals.] any animal."

SECTION 2. Section 711-1109, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Subsection (1)(a), (b), [(c),] (d), (e) and the following subsection (3) are not applicable to accepted veterinary practices and to activities carried on for scientific research governed by standards of accepted educational or medicinal¹ practices."

SECTION 3. Section 711-1100, Hawaii Revised Statutes, is amended to read as follows:²

[(1)] "Public" means affecting or likely to affect a substantial number of persons;

[(2)] "Public place" means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence;

[(3)] "Private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access;

[(4)] "Obstructs" means renders impassable without unreasonable inconvenience or hazard;

[(5)] "Animal" includes every living creature[;], except a human being;

[(6)] "Cruelty", "torture" or "torment" includes every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 19, 1986.)

Notes

1. Prior to amendment "medical" appeared here.

2. So in original.

ACT 193

H.B. NO. 2069-86

A Bill for an Act Relating to Elderly Abuse or Neglect.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 349C-1, Hawaii Revised Statutes, is amended to read as follows:

"[[§349C-1]] **Definitions.** For the purposes of this chapter:

[(1)] "Doctor" means any person licensed to practice medicine, osteopathy, dentistry, or any other healing art in the state;

(2)] "Elderly abuse or neglect" means actual or threatened physical injury, psychological abuse or neglect, sexual abuse, financial exploitation,

negligent treatment, or maltreatment of an elderly person caused by another person[; and].

[(3)] "Elderly person" means any person who is at least sixty-five years of age."

SECTION 2. Section 349C-2, Hawaii Revised Statutes, is amended to read as follows:

"[[§349C-2[]] Reports. [Any doctor, registered nurse, social worker, police officer, other law enforcement officer, medical examiner, or coroner acting in the person's professional capacity who has reason to believe that an elderly person is or has been the subject of elderly abuse or neglect shall promptly report the matter orally to the department of social services and housing. Any member of the staff of a hospital or medical facility examining, attending, or treating an elderly person who has reason to believe that the elderly person is or has been the subject of elderly abuse or neglect shall immediately notify the person in charge of the hospital or medical facility or the person's designated representative. The person in charge of the hospital or medical facility or the designated representative shall immediately notify the department of social services and housing in accordance with this chapter.] (a) The following persons who, in the performance of their professional or official duties, know or have reason to believe that an elderly person has been abused or neglected or is threatened with abuse or neglect shall promptly report the matter orally to the department of social services and housing:

- (1) Any licensed or registered professional of the healing arts and any health-related occupation who examines, attends, treats, or provides other professional or specialized services to the elderly, including but not limited to physicians, psychologists, dentists, nurses, pharmacists, and other health-related professionals;
- (2) Employees or officers of any public or private agency or institution providing social, medical, hospital, or mental health services, including financial assistance;
- (3) Employees or officers of any law enforcement agency, including but not limited to the courts, police departments, correctional institutions, and parole or probation offices;
- (4) Employees or officers of any adult residential care home, adult day care center, or similar institution;
- (5) Medical examiners or coroners.

(b) This section does not prohibit any of the persons enumerated in subsection (a) from reporting incidents which such persons have reason to believe involve abuse or neglect which come to their attention in any private or non-professional capacity.

(c) Any other person who has reason to believe that an elderly person has been abused or neglected or is threatened with abuse or neglect may report the matter orally to the department.

(d) The initial oral report shall be followed as soon as possible by a report in writing to the department of social services and housing; provided that where a police department is the initiating agency, a written report shall not be required unless the police department has declined to take further action and the department of social services and housing informs the police department that it intends to pursue the matter of the orally reported incident of elderly abuse or neglect. All written reports shall contain the name and address of the elderly person and the person who is alleged to have committed or been responsible for the elderly abuse or neglect, if known, the nature and extent of the elderly

person's injury or harm, and any other information the reporter believes might be helpful in establishing the cause of the elderly abuse or neglect.

[Any other person who has reason to believe that an elderly person is or has been the subject of elderly abuse or neglect may report the matter orally to the department of social services and housing.]

(e) Any person who fails to file a report pursuant to this section shall be fined no more than \$500.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 19, 1986.)

ACT 194

H.B. NO. 2117-86

A Bill for an Act Relating to Sale of Fine Prints.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 481F, Hawaii Revised Statutes, is repealed.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER SALE OF PRINTS

§ -1 **Definitions.** Whenever used in this chapter, unless the context otherwise requires:

“Artist” means the person who created the image upon the master or created the image which served as a model for the image which appears on the master.

“Edition” means the aggregate of prints produced from a single master.

“Hors de Commerce” or words of similar import means prints in the edition which are so designated by the artist or printer with the intent of withholding the prints from sale in commerce at the time the edition is produced.

“Limited edition” means print multiples produced from a master, all of which include the same image and bear numbers or other markings to denote the limited production thereof to a stated maximum number of prints, or are otherwise held out as limited to a maximum number of prints.

“Master” is used in lieu of and has the same meaning as a printing plate, stone, block, screen, or similar matrix which contains an image used to produce a print multiple.

“Print multiple” or “print” means any print produced in more than one copy by means of engraving, etching, woodcutting, lithography, serigraphy, or other similar processes or any combination thereof.

“Proof” means a print in an edition which contains substantially the same image and which is produced from the same master as the prints in the related limited edition, but is set aside from and is in addition to the limited edition, whether or not it is designated as a proof.

“Seller of print multiples” or “seller” means a person who is in the business of selling, exclusively or non-exclusively, print multiples, or a person offering prints for sale who by the person's occupation holds the person's self out

as having knowledge or skill peculiar to these works, or to whom that knowledge or skill may be attributed by the employment of an agent or other intermediary who by occupation represents as having that knowledge or skill. The term "seller of print multiples" includes an auctioneer who sells such works at public auction.

"Signed" means the artist signed the print multiple by hand to signify the artist's examination and approval of the print. "Signed" does not mean the act of leaving an impression of the artist's name upon the print by any mechanical process.

"Written instrument" means a written agreement, certificate of authenticity, catalogue, prospectus, advertisement, circular or any other written memorandum describing a print offered for sale by the seller.

§ -2 Exemptions. This chapter shall not apply to print multiples which do not purport to be signed, numbered, approved by the artist, or to comprise a limited edition.

§ -3 Prohibited acts. (a) Any written instrument which solicits a direct sale of print multiples in, into, or from this State published or distributed by any seller of print multiples shall clearly and conspicuously disclose the informational detail required by section -4. This requirement is not applicable to general written material or advertising which does not constitute an offer to effect a specific sale.

(b) If the seller who publishes or distributes a written instrument which solicits a direct sale of prints in, into, or from this State disclaims knowledge as to any informational detail required by section -4, the seller shall so state specifically and categorically with regard to each such detail to the end that the purchaser is enabled to judge the degree of uniqueness or scarcity of the prints offered for sale.

(c) No print multiple shall be offered for sale or sold in, into, or from this State by any seller, at wholesale or retail, unless the seller furnishes the purchaser a written instrument which clearly and conspicuously discloses the informational detail required by section -4 prior to receiving any payment from the purchaser.

(d) If the seller of print multiples disclaims knowledge as to any informational detail required by section -4, the seller shall so state specifically and categorically with regard to each such detail to the end that the purchaser is enabled to judge the degree of uniqueness or scarcity of the prints.

(e) A seller of print multiples may sell or offer to sell prints described in section -2 without furnishing the informational details required by section -4, unless the prints purport to be signed, numbered, approved by the artist, or to comprise a limited edition, in which case all of the informational details required by section -4 shall be furnished.

§ -4 Informational detail. The following informational details shall be disclosed:

- (1) The name of the artist and the artist's participation in creating the print as follows:
 - (A) The name of the artist;
 - (B) Whether or not the image upon the master exists in another medium and if so, state which medium;
 - (C) Name the person, persons or workshop who created the image upon the master;
 - (D) Whether or not the artist approved the master itself or the proofs therefrom;

- (E) Whether or not the artist approved the techniques utilized in the production of the print; and
- (F) Whether or not the artist approved the print.
- (2) Signature. If the name of the artist appears on the print, state whether the print was signed by the artist to signify approval of the print. If the print was not signed by the artist, state the manner in which the artist's name was placed on the print.
- (3) The year in which the print was produced.
- (4) A description of the medium or process such as whether the print was produced by means of etching, engraving, woodcutting, lithography, serigraphy, or other similar processes. If an established term, in accordance with the usage of the trade, cannot be employed accurately to describe the medium or process, a brief, clear description of the medium or process shall be given.
- (5) Whether the edition is being offered as limited edition, and if so:
 - (A) The authorized number of signed or numbered prints, or other, in the edition;
 - (B) The authorized number of unsigned or unnumbered prints, or both, in the edition;
 - (C) The authorized number of proofs, if any, in the edition;
 - (D) The authorized number of prints designated "Hors de Commerce" or by words of similar import; and
 - (E) The total size of the edition.
- (6) Whether or not the master has been destroyed, effaced, altered, defaced, or canceled after producing the edition.
- (7) If there were any prior prints of the same image which were produced by a different process or media or utilized different colors or color schemes, the total number of such prints and an explanation of the difference in process, media, color, or color scheme.
- (8) If there were any prior or later editions produced from the same master, the series number or designation of the subject edition and the total size of all other editions.
- (9) Whether the edition is a posthumous edition or restrike and, if so, whether the master was reworked. If the edition is a restrike, state that restrike is a print multiple made from the master after the edition is produced.
- (10) The name of the printer or workshop, if any, where the edition was produced.

§ -5 Express warranties. (a) Notwithstanding any provision in any other law to the contrary, whenever the seller of print multiples furnishes a purchaser informational details required by section -4, such information shall be presumed to be part of the basis of the bargain and shall create an express warranty as to the information furnished.

(b) The express warranty shall not be negated or limited because the seller did not have a specific intention or authorization to make a warranty or because any information furnished to the purchaser purports to be merely the seller's opinion.

(c) The existence of a factual basis for the information furnished to the purchaser shall not be a defense against the purchaser in an action to enforce the express warranty.

§ -6 Sign required. In each place of business in the State where a seller of print multiples is regularly engaged in the sale of prints, the seller shall post a conspicuous sign in a location reasonably calculated to bring the sign to the attention of purchasers. The sign shall contain the following passage in a legible format: "Hawaii law requires written disclosure of specific information concerning print multiples. This information is intended to assist you in judging the degree of uniqueness or scarcity of the prints and in understanding the means by which the prints were created. The seller will furnish the written disclosure to you at your request or in any event before purchase."

§ -7 Action for damages by purchasers. (a) For information required by section -4, any seller of print multiples who fails to disclose such information or discloses false information shall be liable to the purchaser of the print in an amount equal to the purchase price of the print plus the interest accrued from the date of purchase at the rate provided for in section 478-2.

(b) For information required by section -4, any seller of print multiples who intentionally fails to disclose or intentionally discloses false information shall be liable to the purchaser of the print in the amount of \$1,000 or in an amount equal to three times the purchase price of the print, whichever is greater, plus the interest accrued from the date of purchase at the rate provided for in section 478-2.

(c) No action shall be maintained under this section unless the purchaser of the print tenders the print in the condition in which received by the purchaser to the seller for a refund and the seller fails to refund the full purchase price of the print plus the interest accrued from the date of purchase at the rate provided for in section 478-2.

§ -8 Action for injunction and civil penalties. (a) Civil actions to enjoin violations of this chapter may be prosecuted in circuit court by the attorney general, the office of consumer protection, any county prosecuting attorney, or any person acting in the person's own interest, or in the interest of the members of a corporation or association, or in the interest of the general public.

(b) Any seller of print multiples who violates section -7(a) may be liable for a civil penalty of not less than \$500 nor more than \$2500 for each violation, or any seller of print multiples who violates section -7(b) may be liable for a civil penalty of not less than \$500 nor more than \$10,000 for each violation, which may be recovered in a civil action prosecuted by the attorney general, the office of consumer protection, or any county prosecuting attorney.

(c) In civil actions brought under this section by the attorney general, the office of consumer protection, or any county prosecuting attorney, the court may include in its orders or judgments such provisions as may be necessary to effect restitution in accordance with section 487-14.

(d) Any action to enforce a cause of action arising under this chapter shall be barred unless commenced within one year after discovery of the violation upon which it is based and in no event more than three years after the print was sold.

§ -9 Construction. The rights, liabilities, and remedies created by this chapter shall be construed to be in addition to and not in substitution, exclusion or displacement of other rights, liabilities, remedies provided by law."

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved May 19, 1986.)

A Bill for an Act Relating to the Hawaii Penal Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 353-9, Hawaii Revised Statutes, is amended to read as follows:

"§353-9 Records, etc., delivered to successor. The department of social services and housing shall file all warrants, mittimus, processes, and other official papers, or the attested copies of them, by which any prisoner has been committed, paroled, liberated, or retaken and they shall be safely kept in a suitable box or safe. Upon the death, resignation, or removal from office of the agent of the department having custody of the papers, they shall be delivered, together with all other official records, papers, and journals, to [his] the agent's successor or to any other officer or person duly appointed to receive them. In default of such delivery the agent, if living, may be held liable for [embezzlement,] theft, as provided by section [739-4,] 708-830, and shall also be civilly liable in damages to any person who is injured by such nondelivery. If the agent is dead, the civil liability shall attach to [his] the agent's personal representatives and the sureties upon [his] the agent's official bond, if any has been required jointly and severally. In addition to the civil liability, the agent or [his] the agent's personal representatives and sureties on [his] the agent's official bond shall forfeit and pay for each such default in delivery the sum of \$200 to be recovered for the use of the treasury."

SECTION 2. Section 409-32, Hawaii Revised Statutes, is amended to read as follows:

"§409-32 False swearing; penalty. Any person, having taken an oath in any proceedings or matter where an oath is required by or has been administered under this chapter, who wilfully, corruptly, and falsely states, orally or in writing, some material fact, or wilfully and corruptly procures another to make any statement [as aforesaid,] violating this section, shall be deemed guilty of perjury [or subornation of perjury (as the case may be), and shall be punished as in section 756-5 provided.] as provided in sections 710-1060 to 710-1068 or of criminal solicitation as provided in sections 705-510 to 705-512, as the case may be."

SECTION 3. Section 666-3, Hawaii Revised Statutes, is amended to read as follows:

"§666-3 Forfeiture, warning, notice to vacate, refunds. (a) Any tenancy created by or described in section 666-2 shall be subject to forfeiture where the tenant or any invitee or employee of the tenant commits any act, or causes any condition to exist, within or upon the rented premises which act or condition [is defined as the offense of] constitutes a [common] nuisance [in section 727-1] as defined in section 712-1270.

(b) A written notice shall first be delivered by the landlord to the tenant warning the tenant to abate or cause to be abated the common nuisance within twenty-four hours from the time the notice is delivered. If the common nuisance complained of remains unabated after twenty-four hours from the time the notice is delivered to the tenant, the landlord may terminate the tenancy by a written notice to vacate the premises within five days from the date the second notice is delivered to the tenant. Where rent has been paid in advance by the tenant, refund shall be made by the landlord of the amount of rent so paid

covering the period from the date the rent was paid to and including the date the premises are vacated. If the tenant fails or refuses to vacate the premises within five days from the date of delivery of the second notice, then in case rent has been paid in advance, the landlord shall make a tender of the amount of the refund of rent to which the tenant would have been entitled had [he] the tenant vacated the premises upon the date the notice to vacate was delivered to [him.] the tenant. Thereafter, upon the continued failure or refusal on the part of the tenant to vacate, the landlord may proceed, without further notice, to evict the tenant in any manner authorized by law."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 19, 1986.)

ACT 196

H.B. NO. 2170-86

A Bill for an Act Relating to Blood Test.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§663- Exception to liability for authorized person withdrawing blood at direction of police officer. Any authorized person who properly withdraws blood from another person at the written request of a police officer for testing of the blood's alcoholic content, and any hospital, laboratory or clinic, employing or utilizing the services of such person, and owning or leasing the premises on which such tests are performed, shall not be liable for civil damages resulting from the authorized person's acts or omissions in withdrawing the blood, except for such damages as may result from the authorized person's gross negligence or wanton acts or omissions.

For the purpose of this section, "authorized person" means a person authorized under section 286-152 to withdraw blood at the direction of a police officer."

SECTION 2. Section 286-152, Hawaii Revised Statutes, is amended to read as follows:

"§286-152 Persons qualified to take blood specimen. No person, other than a physician, [licensed laboratory technician, or] registered nurse, or person licensed in a clinical laboratory occupation under section 321-13, may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of a breath specimen."

SECTION 3. Section 286-153, Hawaii Revised Statutes, is amended to read as follows:

"§286-153 Additional tests. The person tested may have any physician, [licensed laboratory technician, or] registered nurse, or person licensed in a clinical laboratory occupation under section 321-13 of his own choosing withdraw blood and any person of his own choosing administer a test or tests in addition to any administered at the direction of a police officer. The result of the

test or tests may be used as provided in section 291-5. The failure or inability to obtain an additional test by a person shall not preclude the admission of the test or tests taken at the direction of a police officer. Upon the request of the person who is tested, full information concerning the test or tests taken at the direction of the police officer shall be made available to [him.] that person."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 19, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 197

H.B. NO. 2284-86

A Bill for an Act Relating to Underground Storage Tanks.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that of the approximately three million underground storage tanks in the United States, an estimated 100,000 are presently leaking harmful substances. Within the next five years, another 350,000 underground storage tanks are also expected to leak. Consequently, the Hazardous and Solid Waste Amendments of 1984 created a new, comprehensive federal program for the regulation of underground storage tanks. Under these new provisions states may adopt their own regulatory programs by establishing state standards that at least meet minimum federal standards. The purpose of this Act is to establish state standards to protect Hawaii's public health and the environment from ground and surface water contamination resulting from leaking underground storage tanks that are at least as stringent as those adopted by federal rules promulgated under Title VI of the Hazardous and Solid Waste Amendments of 1984.

SECTION 2. Chapter 342, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . UNDERGROUND STORAGE TANKS

§342- Definitions. As used in this part, unless the context otherwise requires:

"Department" means the department of health.

"Guarantor" means any person, other than the owner or the operator, who provides evidence of financial responsibility for the underground storage tank.

"Operator" means any person in control of, or having responsibility for, the daily operation of the underground storage tank.

"Owner" means:

- (1) In the case of an underground storage tank in use or brought into use on or after the effective date of this Act, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances; and
- (2) In the case of an underground storage tank in use before the effective date of this Act, but no longer in use after that date, any

person who owned such tank immediately before the discontinuation of its use.

"Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, commission, the State, or a political subdivision of the State. "Person" also includes a consortium, a joint venture, a commercial entity, and the United States government.

"Regulated substance" means element, compound, mixture, solution, or substance that, when released into the environment, may present substantial danger to the public health, welfare, or the environment. The term includes:

- (1) Any substance defined in section 101(14) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, as amended (but not including any substance regulated as a hazardous waste under subtitle C of the Act); or
- (2) Petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute); and
- (3) Any other substance as designated by the department.

"Release" includes, but is not limited to, any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into groundwater, surface water, or subsurface soils.

"Underground storage tank" means any one or combination of tanks (including pipes connected thereto) used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ten per cent or more beneath the surface of the ground. Exemptions from this definition and rules adopted under this chapter include:

- (1) Farm or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes;
- (2) Tank used for storing heating oil for consumptive use on the premises where stored;
- (3) Septic tank;
- (4) Pipeline facility (including gathering lines) regulated under:
 - (A) The Natural Gas Pipeline Safety Act of 1968, Public Law 90-481, as amended;
 - (B) The Hazardous Liquid Pipeline Safety Act of 1979, Public Law 96-129, as amended;
- (5) Surface impoundment, pit, pond, or lagoon;
- (6) Storm water or waste water collection system;
- (7) Flow-through process tank;
- (8) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; and
- (9) Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

§342- Notification requirements. (a) The owner of an existing underground storage tank shall notify the department by December 31, 1986, of the existence of such tank and specify the age, size, type, location, and uses of such tank. Notice shall be made on an approved form of notice provided by the department.

(b) The owner of an existing underground tank taken out of operation between January 1, 1974, and the effective date of this Act shall notify the department by December 31, 1986, of the existence of the tank, unless the owner knows the tank subsequently was removed from the ground. Notices shall include, to the extent known to the owner, at least the following specifications:

- (1) The date the tank was taken out of operation;
- (2) The age of the tank on the date taken out of operation;
- (3) The size, type, and location of the tank; and
- (4) The type and quantity of substances left stored in the tank on the date taken out of operation.

(c) Any owner who brings into use an underground storage tank after the effective date of this Act shall notify the department within thirty days after the installation of the tank, specifying the age, size, type, location, and uses of the tank.

(d) Subsections (a) to (c) shall not apply to tanks for which notice was given pursuant to section 103(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-516, as amended.

(e) The owner of an underground storage tank taken out of operation on or before January 1, 1974, is not required to notify the department.

§342- New tank standards. (a) The department shall adopt performance standards under chapter 91 which shall apply to underground storage tanks brought into use on or after the effective date of such standards. The performance standards for new underground storage tanks shall include, but are not limited to, design, construction, installation, release detection, and compatibility standards.

(b) New tank construction standards shall include at least the following specifications:

- (1) The tank will prevent releases of the stored regulated substances due to corrosion or structural failure for the operational life of the tank;
- (2) The tank is cathodically protected against corrosion, constructed of noncorrosive material, or steel clad with a noncorrosive material, or designed in a manner to prevent the release or threatened release of the stored regulated substance; and
- (3) The material used in the construction or lining of the tank is compatible with the substance to be stored.

§342- Leak detection and record maintenance. (a) The department shall adopt under chapter 91 standards of performance for maintaining a leak detection system, an inventory control system, and tank testing system, or a comparable system or method designed to identify releases in a manner consistent with the protection of human health and the environment. In addition, the department shall adopt requirements for maintaining records of any such monitoring, leak detection, inventory control, and tank testing system.

(b) The requirements for the leak detection and record maintenance system shall include, but are not limited to:

- (1) Directing the operator of an underground storage tank to keep accurate regulated substance inventory records for the purpose of detecting leaks. Records shall be kept for each tank on each day a regulated substance is added to or withdrawn from the tank and shall include, as a minimum, a record of the amount of stored

- regulated substance withdrawn and received and the amount of stored regulated substance in the tank.
- (2) Inventory measurements shall be made by gauge or gauge stick or by readout from an automatic monitoring system.
- (3) Inventory records shall be maintained on a regular basis; provided that daily inventory records need not be maintained on those days when a tank is not used if such period does not exceed seven days.
- (4) Losses or gains from each day's inventory period shall be averaged for each five consecutive readings or once a week.
- (5) Records required to be maintained by the operators, pursuant to this section, shall be retained for a minimum of two years.

§342- Reporting of releases and corrective action. The department shall adopt under chapter 91 requirements for the reporting of any releases and corrective action taken in response to a release from an underground storage tank.

§342- Tank closure requirements. The department shall adopt under chapter 91 requirements for the closure of tanks, including the removal and disposal of tanks to prevent future releases of regulated substances into the environment.

§342- Corrective action. The department shall adopt under chapter 91 requirements for taking corrective action in response to a release from an underground storage tank which should include at least the following:

- (1) Requirement that when a leak is found, the substances in the tank be emptied if emptying the substances does not present a greater danger to public health and the environment;
- (2) Requirement for the removal or proper abandonment of the tank, following the requirements established under section 342-6, or repair and testing of the tank before placing it back into operation; and
- (3) Requirement that the owner of the leaking underground storage tank restore the environment to a condition and quality acceptable to the department.

§342- Financial responsibility. (a) The department shall adopt under chapter 91 requirements for maintaining evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and unsudden accidental releases arising from operating an underground storage tank. Evidence of financial responsibility may be established by rule by any one, or any combination of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In prescribing requirements under this subsection, the department may specify policy or other contractual terms, conditions, or defenses which are necessary or acceptable to establish evidence of financial responsibility.

(b) If the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the federal bankruptcy law, or if jurisdiction in any state or federal court cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this subsection may be asserted directly against the guarantor providing the evidence of financial responsibility. In the case of action pursuant to this subsection, the guarantor is entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator

by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(c) The total liability of a guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this subsection. This subsection does not limit any other state or federal statutory, contractual, or common law liability of a guarantor to its owner or operator, including, but not limited to, the liability of the guarantor for bad faith in negotiating or in failing to negotiate the settlement of any claim. This subsection does not diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-516, as amended, or other applicable law.

(d) Corrective action and compensation programs financed by fees on tank owners and operators and administered by the department may be submitted as evidence of financial responsibility under this section.

§342- Inspections, monitoring, and testing. (a) For the purpose of developing or assisting in the development of any regulation, conducting any study, or enforcing this part, any owner or operator of an underground storage tank, upon the request of any duly authorized representative of the department, shall furnish information relating to such tanks, including tank equipment and contents; conduct monitoring or testing; and permit the designated representative at all reasonable times to have access to, and to copy all records relating to such tanks. For the purpose of developing or assisting in the development of any rule, conducting any study, or enforcing this part, such representatives are authorized:

- (1) To enter at reasonable times any establishment or place where an underground storage tank is located;
- (2) To inspect and obtain samples from any person of any regulated substances contained in such tank; and
- (3) To conduct monitoring or testing of the tanks, associated equipment, contents, or surrounding soils, air, surface water, or groundwater.

Each inspection shall be commenced and completed with reasonable promptness.

(b) Any records, reports, or information obtained from any persons under this section shall be available to the public except as provided in this subsection. Upon a showing satisfactory to the department that public disclosure of records, reports, or information, or a particular part thereof, to which the department representative has access under this section would divulge commercial or financial information entitled to protection under state law, the department shall consider such information or a particular portion thereof to be confidential; provided that the document or information may be disclosed to officers, employees, or authorized representatives of the State or of the United States, who have been charged with carrying out this part or Subtitle I of the Resource Conservation and Recovery Act of 1976, Public Law 94-580, as amended, or when relevant in any proceeding under this part.

§342- Tank permit requirements. (a) No person shall own, install, or operate an underground storage tank brought into use after the effective date of the new tank standards established in section 342- unless a permit is obtained from the department and upon payment of a fee to be established by rule under chapter 91. The application for the permit shall include the new tank standards provided in section 342- .

(b) The department shall prepare a form which provides for the acceptance of the obligations of a transferred permit by any person who is to assume the ownership of an underground storage tank from the previous owner. That person shall complete the form accepting the obligations of the permit and submit the completed form within thirty days after the ownership of the underground storage tank is to be transferred.

§342- Variances. Provisions under this part deemed more stringent than the federal rules established under Title VI of the Hazardous and Solid Waste Amendments of 1984, Public Law 98-616, as amended, may be varied by the department, when the variance results in an equivalent degree of environmental protection and does not present a greater danger to public health and the environment."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$25,000, or so much thereof as may be necessary for fiscal year 1986-1987, for the purposes of this Act.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 19, 1986.)

ACT 198

H.B. NO. 2337-86

A Bill for an Act Relating to Driving Under Influence.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) [[Text of subsection (c) effective December 31, 1984.]] Whenever a court sentences a person pursuant to section 291-4(b)(2) or (3), it shall also require that the offender be referred to a substance abuse counselor who has been certified pursuant to section 321-193 for an assessment of the offender's alcohol abuse or dependence and the need for appropriate treatment. The counselor shall submit a report with recommendations to the court. The court may require the offender to obtain appropriate treatment[.] if the counselor's assessment establishes the offender's alcohol abuse or dependence.

All cost for such assessment or treatment or both shall be borne by the offender."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1986.)

ACT 199

H.B. NO. 2358-86

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 602-5, Hawaii Revised Statutes, is amended by amending subsection (2)¹ to read as follows:

"§602-5 Jurisdiction and powers. The supreme court shall have jurisdiction and powers as follows:

- (1) To hear and determine all questions of law, or of mixed law and fact, which are properly brought before it on any appeal allowed by law from any other court or agency;
- (2) To answer, in its discretion, any question of law reserved by a circuit court, the land court, or the tax appeal court, or any question or proposition of law certified to it by a federal district or appellate court if the supreme court shall so provide by rule;
- (3) To entertain, in its discretion, any case submitted without suit when there is a question in difference which might be the subject of a civil action or proceeding in the supreme court, circuit court, or tax appeal court, and the parties agree upon a case containing the facts upon which the controversy depends;
- (4) To exercise original jurisdiction in all questions arising under writs directed to courts of inferior jurisdiction and returnable before the supreme court, or if the supreme court consents to receive the case arising under writs of mandamus directed to public officers to compel them to fulfill the duties of their offices; and such other original jurisdiction as may be expressly conferred by law;
- (5) To issue writs of habeas corpus, or orders to show cause as provided by chapter 660, returnable before the supreme court or a circuit court, and any justice may issue writs of habeas corpus or such orders to show cause, returnable as above stated;
- (6) To make or issue any order or writ necessary or appropriate in aid of its appellate or original jurisdiction, and in such case any justice may issue a writ or an order to show cause returnable before the supreme court;
- (7) To make and award such judgments, decrees, orders and mandates, issue such executions and other processes, and do such other acts and take such other steps as may be necessary to carry into full effect the powers which are or shall be given to it by law or for the promotion of justice in matters pending before it.
- (8) All cases addressed to the jurisdiction of the supreme court or of the intermediate appellate court shall be filed with the supreme court as shall be provided by rule of court. The chief justice or his designee from any of the associate justices or the intermediate appellate judges, shall receive each case and shall assign the case either to the intermediate appellate court or to the supreme court within twenty days of the filing deadline for the last document permissible to be filed in the case pursuant to court rule.
- (9) The supreme court may order the immediate reassignment of a case to itself after its assignment to the intermediate appellate court whenever the supreme court in its discretion deems that the case concerns an issue of imperative or of fundamental public importance."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1986.)

Note

1. So in original.

ACT 200

H.B. NO. 2362-86

A Bill for an Act Relating to Family Court.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 560:5-207, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notice of the time and place of hearing of a petition for the appointment of a guardian of the person of a minor shall be given by the petitioner to the minor, if he is fourteen or more years of age, by personal service. In addition, notice of the time and place of hearing of a petition for the appointment of a guardian of the person of a minor is to be given by the petitioner in the manner prescribed by section 560:1-401 to:

- (1) The person who has had the principal care and custody of the minor during the sixty days preceding the filing of the petition;
- (2) Any living legal parent [and grandparent of the minor; and];
- (3) Any living legal grandparent of the minor. For good cause, the court may waive notice to a grandparent upon showing that all reasonable efforts have been made to ascertain the identity and address of the person or to effect notice, that the efforts were unsuccessful, and that further efforts should not be required because the legal grandparent has not demonstrated a reasonable degree of interest or concern in the minor; and

[(3)] (4) Any guardian of the minor's property.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved May 19, 1986.)

ACT 201

H.B. NO. 2363-86

A Bill for an Act Relating to Family Court.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 578-2, Hawaii Revised Statutes, is amended by amending subsection (c)(2)¹ to read as follows:

“(c) Persons as to whom consent not required or whose consent may be dispensed with by order of the court.

- (1) Persons as to whom consent not required:
 - (A) A parent who has deserted a child without affording means of identification for a period of ninety days;
 - (B) A parent who has voluntarily surrendered the care and custody of the child to another for a period of two years;

- (C) A parent of the child in the custody of another, if the parent for a period of at least one year has failed to communicate with the child when able to do so;
 - (D) A parent of a child in the custody of another, if the parent for a period of at least one year has failed to provide for the care and support of the child when able to do so;
 - (E) A natural father who was not married to the child's mother at the time of the child's conception or birth and who does not fall within the provisions of subsection (a)(3) or (4) or (5);
 - (F) A parent whose parental rights have been judicially terminated under the provisions of sections 571-61 to 571-63, or under the provisions of any other state or other law by a court or other agency having jurisdiction to take such action;
 - (G) A parent judicially declared mentally ill or mentally retarded and who is found by the court to be incapacitated from giving consent to the adoption of the child;
 - (H) Any legal guardian or legal custodian of the child sought to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of sixty days or who, after examination of his written reasons for withholding consent, is found by the court to be withholding his consent unreasonably;
 - (I) A parent of a child who has been in the custody of a petitioner under this chapter for a period of at least one year and who entered the United States of America as a consequence of extraordinary circumstances in said child's country of origin, by reason of which extraordinary circumstances the existence, identity or whereabouts of said child's parents is not reasonably ascertainable or there is no reasonable means of obtaining suitable evidence of the child's identity or availability for adoption;
 - [J]¹ Any parent of the individual to be adopted, if the individual is an adult eligible for adoption under subsection (b).
- (2) Persons whose consent may be dispensed with by order of the court. The court may dispense with the consent of a parent who comes within subsection (a)(3) or (4) or (5) herein, upon finding that:
- (A) The petitioner is the stepfather of the child and the child has lived with his legal mother and the petitioning stepfather for a period of at least one year; or
 - (B) The [adjudicated, presumed, or] concerned father has not filed a petition to adopt such child, or the petition to adopt said child filed by said father has been denied; or
 - (C) The adjudicated, presumed, or concerned father is not a fit and proper person or is not financially or otherwise able to give the child a proper home and education."

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon approval.

(Approved May 19, 1986.)

Note

- 1. So in original.

ACT 202

H.B. NO. 2569-86

A Bill for an Act Relating to "Aloha Spirit".

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 5, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§5- "Aloha Spirit". (a) "Aloha Spirit" is the coordination of mind and heart within each person. It brings each person to the self. Each person must think and emote good feelings to others. In the contemplation and presence of the life force, "Aloha", the following unuhi laula loa may be used:

"Akahai", meaning kindness to be expressed with tenderness;

"Lokahi", meaning unity, to be expressed with harmony;

"Oluolu", meaning agreeable, to be expressed with pleasantness;

"Haahaa", meaning humility, to be expressed with modesty;

"Ahonui", meaning patience, to be expressed with perseverance.

These are traits of character that express the charm, warmth and sincerity of Hawaii's people. It was the working philosophy of native Hawaiians and was presented as a gift to the people of Hawaii. "Aloha" is more than a word of greeting or farewell or a salutation. "Aloha" means mutual regard and affection and extends warmth in caring with no obligation in return. "Aloha" is the essence of relationships in which each person is important to every other person for collective existence. "Aloha" means to hear what is not said, to see what cannot be seen and to know the unknowable.

(b) In exercising their power on behalf of the people and in fulfillment of their responsibilities, obligations and service to the people, the legislature, governor, lieutenant governor, executive officers of each department, the chief justice, associate justices, and judges of the appellate, circuit, and district courts may contemplate and reside with the life force and give consideration to the "Aloha Spirit".

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved May 19, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 203

H.B. NO. 1388

A Bill for an Act Relating to Motor Carriers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 271, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§271- Motor carrier lien. (a) In addition to the lien provided by section 490:7-307, a carrier has a lien on freight in its possession for the total amount owed the carrier by the shipper for freightage, charges for services and advances due on freight previously delivered upon the promise of the shipper to pay freightage, charges and advances, as provided in this section.

(b) The lien provided by this section shall not arise:

- (1) Unless the carrier has given the shipper and the consignee 10 days notice in writing, that failure to pay billed charges may result in a lien on future shipments; or
- (2) As to any freight which consists of perishable goods; or
- (3) As to any freight, the freight charges for which have been prepaid by the consignee or the intended recipient; or
- (4) As to any freight, if the applicable charges were paid to a third party legally obligated to remit the payment to the carrier but the amount due has not been received by the carrier; or
- (5) As to any property legally owned by anyone other than the debtor, or as to which the current identity of the owner is unknown.

(c) Except as otherwise provided in this section, the notice and sale provisions of section 490:7-308, shall apply to the sale of property subject to a lien provided by this section.

(d) No sale of property subject to a lien provided by this section may take place for at least 35 days from the date that possession of the property is delivered to the carrier but the notice period set forth in section 490:7-308 may run concurrently with the 35-day period provided by this subdivision. In addition to the notices required by section 490:7-308, the lienholder, at least 10 days prior to any sale of the property, shall notify the shipper and the consignee of the property, and each secured party having a perfected security interest in the property, of the date, time and place of the intended sale. This notice shall include the names of both the shipper and the consignee and shall describe the property to be sold.

(e) Any perfected security interest in the property is prior to the lien provided by this section. No sale of the property may be concluded if the amount bid at the sale is not at least equal to the total amount of all outstanding obligations secured by a perfected security interest in the property. If the minimum bid required for the sale of property pursuant to this subdivision is not received, the lienholder shall promptly release the property to the legal owner upon payment of the current amount for freightage, charges for services and advances due for shipment of that property, not including amounts due on freight previously delivered.

The proceeds of the sale shall be applied as follows:

- (1) First, to secured parties having a perfected security interest, in the amounts to which they are respectively entitled.
- (2) Second, to the discharge of the lien provided by this section.
- (3) The remainder, if any, to the legal owner of the property.

In the event of any violation by the lienholder of any provision of this subdivision the lienholder shall be liable to any secured party for all damages sustained by the secured party as a result thereof plus all expenses reasonably and necessarily incurred in the enforcement of the secured party's rights, including reasonable attorney's fees and costs of suit.

(f) The shipper shall be liable to the consignee for any damage which results from the failure of the property to reach the consignee as scheduled due to the carrier's proper exercise of its lien rights pursuant to this section.

(g) The carrier shall be liable to the consignee for any damage which results from the failure of the property to reach the consignee as scheduled due to the carrier's violation or misuse of any lien obtained under this section. The measure of damages shall be determined as set forth in section 490:2-713."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect on July 1, 1987.

(Approved May 27, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 204

H.B. NO. 1691-86

A Bill for an Act Relating to Victim-Witness Assistance Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that a statewide program to assist victims and witnesses of crime is a necessary part of law enforcement and recognizes the importance of the present program being implemented by the counties. In enacting this Act, the legislature declares its intent to ensure the permanence of the program by establishing it in the department of the attorney general but having the program continue to be the responsibility of the counties to implement and to provide supplementary budget funds.

SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§28- Victim-witness assistance program. (a) There is established a victim-witness assistance program in the department of the attorney general, whose purpose shall be to provide information, assistance, and support services to the victims of and witnesses to crimes committed in the State.

(b) The attorney general shall allocate and award appropriated funds to counties whose victim-witness assistance units are in substantial compliance with the policies and criteria established. The attorney general and the county prosecutors shall work together to establish victim-witness assistance program policies and criteria which shall not be subject to chapter 91. The county prosecutors shall implement the program in their respective counties.

(c) Any sums appropriated by the State for the victim-witness units in each of the respective counties shall be contingent upon the respective counties providing a minimum of twenty-five (25%) of the sum appropriated to each county.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 205

H.B. NO. 1695-86

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The title preceding sections 431-751 to 431-765, Hawaii Revised Statutes, is amended to read as follows:

“MASS MERCHANDISING OF [MOTOR VEHICLE] INSURANCE”

SECTION 2. Section 431-751, Hawaii Revised Statutes, is amended to read as follows:

“§431-751 Definitions. As used in sections 431-751 to [431-766] 431-765:

- (1) “Employees” includes compensated officers, managers, and employees of a firm, corporation, partnership, sole proprietor, trust, estate, or members of an unincorporated association or nonprofit organization. A mass merchandising agreement may provide that the term “employees” shall include retired employees and the individual proprietor, partners, or trustees, if the employer is an individual proprietor, partnership, trust, or estate.
- (2) “Employer” includes any firm, corporation, partnership, sole proprietor, trust, estate, and unincorporated association or nonprofit organization; it also includes the State, any county, and any municipal corporation, and any governmental unit, agency, or department thereof.
- (3) “Insurer” means an insurer authorized to transact the business of motor vehicle, property and casualty insurance in the State.
- (4) “Mass merchandise” means to sell and “mass merchandising” means a sale of insurance wherein (A) the insurance is offered to employees of particular employers or to members of particular established associations or organizations and (B) the employer, association, or organization has agreed to, or otherwise affiliated itself with, the sale of such insurance to its employees or members.
- (5) “Mass merchandising plan” or “plan” means a program, design, or scheme of the insurance to be mass merchandised, including terms, coverages, and premiums.
- (6) “Mass merchandising agreement” means an agreement between an insurer and an employer, association, or organization for the sale of insurance to the employees of the employer or to the members of the association or organization on a mass merchandising basis.
- (7) [(a) “Private passenger motor vehicle” (or motor vehicle) means a motor vehicle of the private passenger, station wagon or jeep type, motorcycle, motorized bicycle, power cycle, motor scooter and any other similar vehicles of the private passenger type including trailers and semi-trailers used in connection therewith, owned by an individual or jointly owned by such individual and his or her spouse or relatives who are members of his or her household, but shall not include any of the foregoing which are used as a public or livery conveyance for passengers or rented to others without a driver. (b) “Private passenger motor vehicle” shall also include a motor vehicle with a pick-up or similar body, a delivery sedan or a panel truck which is not customarily used in the occupation, profession or business of the insured other than in the course of driving to and from work if such vehicle shall have a load capacity of 1500 pounds or less.] “Motor vehicle” means a vehicle of a type required to be registered under chapter 286, including a vehicle with less than four wheels or a trailer.
- (8) “[Private passenger motor vehicle insurance”, “insurance” or “motor] Motor vehicle insurance” means [insurance against loss or expense, or liability for loss or expense resulting from injury to persons or loss of or damage to property arising from the

ownership, operation, maintenance, or use of a private passenger motor vehicle.] a no-fault insurance policy and optional additional insurance as defined under chapter 294.”

SECTION 3. Section 431-752, Hawaii Revised Statutes, is amended to read as follows:

“[[§431-752[]] **Applicability.** Sections 431-751 to [431-766] 431-765 shall apply [only] to [private passenger] motor vehicle insurance and to [policies which become effective on or after October 1, 1972.] property and casualty insurance as defined in sections 431-11 and 431-8. The provisions of sections 431-751 to [431-766] 461-765¹ are in addition to, and not in substitution for, other applicable requirements of law relating to motor vehicle, property and casualty insurance and the rules and regulations of the insurance commissioner adopted pursuant thereto. The requirements of sections 431-751 to [431-766] 461-765¹ do not apply to methods of merchandising other than mass merchandising as defined in section 431-751.”

SECTION 4. Section 431-753, Hawaii Revised Statutes, is amended to read as follows:

“[[§431-753[]] **Mass merchandising authorized.** An insurer may mass merchandise [private passenger] motor vehicle, property and casualty insurance to the employees of any employer or to the members of any association or organization under a mass merchandising plan audited by the insurance commissioner; provided that such mass merchandising is agreed to by the employer, association, or organization. An employer, association, or organization may contract with one or more insurers for mass merchandising of [private passenger] motor vehicle, property and casualty insurance to its employees or members.”

SECTION 5. Section 431-754, Hawaii Revised Statutes, is amended to read as follows:

“[[§431-754[]] **Mass merchandising prohibited when.** (a) No insurer shall mass merchandise [motor vehicle] insurance to members of any association or organization formed principally for the purpose of obtaining the benefits of mass merchandising.

(b) No insurer shall mass merchandise [motor vehicle] insurance to employees of any employer or to members of any association or organization which requires the purchase of or participation in insurance sold on a mass merchandising basis as a condition of employment or membership, or which subjects any employee or member to any penalty for failure to purchase or participate in insurance sold on a mass merchandising basis.”

SECTION 6. Section 431-755, Hawaii Revised Statutes, is amended to read as follows:

“[[§431-755[]] **Mass merchandising requirements.** Mass merchandising of [motor vehicle] insurance and every mass merchandising plan shall be subject to the following conditions:

- (1) The insurance offered shall be open to participation by or be available to every employee of the employer or to every member of the association or organization who meets the underwriting requirements of the insurer.

- (2) The insurance shall be offered without discrimination against any employee or member as to rates, forms, or coverages. Nothing herein shall preclude the establishment of different classes of risks.
- (3) Upon the termination of employment or membership or upon the termination of the mass merchandising agreement, an insured employee or member shall have the option of continuing his participation in a group policy or his individual policy then in force for a period of one year upon payment of the applicable premium; provided that the employee or member shall exercise his option within thirty days following the date of such termination.
- (4) The insurer shall issue a certificate or other evidence of participation to every member covered under a group policy and a policy of insurance to every member insured under an individual policy.
- (5) The insurance offered shall not be contingent upon the purchase of any other insurance, product, or service; nor shall the purchase of any other insurance, product, or service be contingent upon the purchase of the motor vehicle, property and casualty insurance offered."

SECTION 7. Section 431-756, Hawaii Revised Statutes, is amended to read as follows:

"[]§431-756[] **Disclosure.** Every insurer selling [motor vehicle] insurance on a mass merchandising basis shall, prior to sale, make full and fair disclosures to prospective insureds of all features of the plan, including but not limited to premium rates, claims procedure, benefits, duration of coverage, and policyholder services."

SECTION 8. Section 431-760, Hawaii Revised Statutes, is amended to read as follows:

"[]§431-760[] **Premium rates.** Premium rates for [private passenger motor vehicles] insurance sold on a mass merchandising basis shall comply with the standards in sections 294-13, 431-693, and 431-713 including the standards that rates not be excessive, inadequate or unfairly discriminatory.

Rates shall not be deemed to be unfairly discriminatory because different premiums result for policyholders with like loss exposure but different expense factors, or like expense factors but different loss exposures, so long as the rates reflect the differences with reasonable accuracy. Rates shall not be deemed to be unfairly discriminatory if they are averaged broadly among persons insured under a mass merchandising plan."

SECTION 9. Section 431-761, Hawaii Revised Statutes, is amended to read as follows:

"[]§431-761[] **Underwriting standards.** Every plan of mass merchandising and all rules and standards applicable to mass merchandising of [motor vehicle] insurance shall be subject to audit by the insurance commissioner by written request to the insurer. No underwriting standard for risk selection or otherwise under a mass merchandising plan shall be more restrictive than the standards used for insurance sold by methods other than mass merchandising."

SECTION 10. Section 431-762, Hawaii Revised Statutes, is amended to read as follows:

"[]§431-762[] **Statistics.** Every insurer mass merchandising [motor vehicle] insurance shall keep and maintain data on its experience under each

plan, including data on premium income, losses, and expenses. The data shall be kept and maintained separately from any experience data on [motor vehicle] insurance sold by means other than mass merchandising.”

SECTION 11. Section 431-763, Hawaii Revised Statutes, is amended to read as follows:

“[] §431-763[]] **Licenses.** No person shall act as an insurance agent, subagent, or solicitor, in connection with mass merchandising of [motor vehicle] insurance, unless he is licensed as such under sections 431-361, 431-362, or 431-363.”

SECTION 12. Section 431-764, Hawaii Revised Statutes, is amended to read as follows:

“[] §431-764[]] **Establishment and maintenance of office.** Every insurer selling [motor vehicle] insurance on a mass merchandising basis shall establish and maintain at all times an office in the State to conduct the administration of its business and handle claims.”

SECTION 13. Section 431-765, Hawaii Revised Statutes, is amended to read as follows:

“[] §431-765[]] **Rules [and regulations].** The insurance commissioner shall [promulgate] adopt rules [and regulations] necessary to effectuate the purposes of sections 431-751 to [431-766.] 431-764.”

SECTION 14. Section 431-766, Hawaii Revised Statutes, is repealed.

SECTION 15. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§431- **Readjustment of premiums; dividends.** (a) Any mass merchandising agreement may provide for the readjustment of the rate of premium based on experience at the end of the first year or of any subsequent year of insurance, and such readjustment may be made retroactive only for the policy year.

(b) If a policy dividend is hereafter declared or a reduction in rate is hereafter made or continued under any mass merchandising plan, heretofore or hereafter issued, the excess, if any, of the aggregate dividends or rate reductions under the policy and all other group insurance policies of the policyholder over aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer of an insured person, or by a union or association to which an insured person belongs, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.”

SECTION 16. Chapter 294, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§294- **U-Drive motor vehicles; specialty insurers not prohibited.** (a) For the purposes of this section “U-Drive motor vehicle” means a motor vehicle which is rented or leased or offered for rent or lease to a customer from an operator of a U-Drive rental business.

(b) For the purposes of this section “U-Drive rental business” means the business of renting or leasing to a customer a motor vehicle for a period of six months or less notwithstanding the terms of the rental or lease if in fact the motor vehicle is rented or leased for a period of six months or less.

(c) Nothing in this chapter shall prevent an insurer from offering no-fault insurance policies for only U-Drive motor vehicles.”

SECTION 17. Section 294-20, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A joint underwriting plan is established consisting of all insurers authorized to write and engage in writing [automobile] motor vehicle insurance in this State[.] except those insurers writing motor vehicle insurance exclusively under sections 294-12.5 and 294-. [Each insurer] All other insurers shall be [a member] members of the plan and shall maintain membership as a condition of its licensure to transact such insurance in this State.

The commissioner shall establish and maintain a joint underwriting plan bureau in the division of motor vehicle insurance to receive, assign, and supervise the servicing of all assigned claims and all applications for joint underwriting plan coverage. The commissioner shall adopt regulations for the operation of the bureau, the assignment of applications for joint underwriting plan coverage and assigned claims, and the inspection, supervision, and maintenance of this service on a fair and equitable basis in accordance with this chapter.

All costs incurred in the operation of the joint underwriting plan bureau and the operation of this plan including administrative, staff, and consultative costs as provided in section 294-15, and claims paid, excepting assigned claims as provided in section 294-23(d), shall, under regulations to be established by the commissioner, be allocated fairly and equitably among the no-fault insurers.”

SECTION 18. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 19. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

Notes

1. Probably should read “431-765”.
2. Edited pursuant to HRS §23G-16.5.

ACT 206

H.B. NO. 1967-86

A Bill for an Act Relating to Inspection of Meat and Meat Products.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 159, Hawaii Revised Statutes, is amended by adding the following new sections to be appropriately designated and to read as follows:

“§159- Enforcement. (a) Inspectors shall enforce this chapter and related rules adopted by the department.

(b) Inspectors shall be provided with suitable badges or insignia of office by the department, and shall have power to detain or impound meat or meat product that is in violation of this chapter. The division head of the division of animal industry of the department or the division head’s designees shall have the power to serve and execute warrants in all matters relating to the meat inspection laws and to issue a citation for any violation of this chapter or related rules.

§159- Citation and summons. (a) There shall be printed a form of citation and summons for use in citing violators warning the person to appear

and answer the charge against the person at a certain place and at a time within seven days after the citation. The citation and summons shall be so designed to include all necessary information to make it valid and legal within the laws and rules of the State. The form and contents of the citation and summons shall be adopted or prescribed by the district courts.

(b) In every case when a citation and summons is issued, the original of the same shall be given to the accused; provided that the district courts may prescribe the issuance to the accused of a carbon copy of the citation and summons and provide for the disposition of the original and any other copies.

(c) Every citation and summons shall be consecutively numbered and each carbon copy shall bear the number of its original.

§159- Administration of oath. When a complaint is made to any prosecuting officer of the violation of this chapter or the rules adopted pursuant thereto, the division head or the division head's designee who issued the citation and summons shall subscribe to the complaint under oath.

§159- Failure to obey summons. (a) Any person who fails to appear at the place and time specified in the citation and summons issued to that person by the division head or the division head's designee upon the person's citation for violation of the meat inspection laws or rules shall be guilty of a misdemeanor and, upon conviction, fined not more than \$500 or imprisoned not more than six months, or both.

(b) If any person fails to comply with a citation and summons issued to that person, the division head or the division head's designee shall cause a complaint to be entered against the person and secure the issuance of a warrant for that person's arrest.

(c) When a complaint is made to any prosecuting officer of the violation of any provision of this chapter or any rule adopted thereunder, the division head or the division head's designee who issued the complaint and summons shall subscribe to it under oath."

SECTION 2. Section 159-3, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"“Person” means any individual, firm, corporation, association, or partnership, or any organized group of persons whether incorporated or not.”

SECTION 3. Section 159-52, Hawaii Revised Statutes, is amended to read as follows:

“[[§159-52[]] Penalties; prosecution. (a) Whenever any carcass, part of a carcass, meat, or meat [products] product of cattle, sheep, swine, goats, horses, mules, or other equines or any product exempted from the definition of a meat or meat [products,] product or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, or equine is found by any authorized representative of the board upon any premises where it is held for purposes of, or during or after distribution in, intrastate commerce[,] and there is reason to believe that any meat or meat [products are] product is adulterated or misbranded and [are] is capable of use as human food, or that it has not been inspected[,] in violation of this chapter or of the Federal Meat Inspection Act or the Hawaii or Federal Food, Drug, and Cosmetic Act, or that the meat or meat [products] product or animal [have] has been or [are] is intended to be[,] distributed in violation of any provisions, it may be detained by the representative for a period not to exceed twenty days, pending action or notification of any Federal authorities having jurisdiction over the meat or meat [products] product or animal, and shall not

be moved by any person from the place at which it is located when detained[,] until released by the representative. All official marks may be required by the representative to be removed from the meat [and] or meat [products] product or animal before it is released unless it appears to the satisfaction of the board that the meat or meat [products] product or animal [are] is eligible to retain the marks.

(b) Any carcass, part of a carcass, meat, or meat [products] product of cattle, sheep, swine, goats, horses, mules, or other equines[,], or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, or equine[,], that is being transported in intrastate commerce[,], or is held for sale in [this] the State after [the transportation,] being so transported and that (1) is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter, or (2) is capable of use as human food and is adulterated or misbranded, or (3) in any other way is in violation of this chapter, shall be liable to be proceeded against and seized and condemned, at any time, in any circuit court within the jurisdiction of which the meat or meat [products] product or animal [are] is found. If the meat or meat [products] product or animal [are] is condemned [they], it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees[,], and storage and other proper expenses, shall be paid into the general fund of [this] the State, but the meat or meat [products] product or [animals] animal shall not be sold contrary to this chapter[,], or the Federal Meat Inspection Act or the Hawaii or Federal Food, Drug, and Cosmetic Act; provided that upon the execution and delivery of a good and sufficient bond issued on the condition that the meat or meat [products] product or animal shall not be sold or otherwise disposed of contrary to this chapter[,], or the laws of the United States, the court may direct that the meat or meat [products] product or animal be delivered to the owner thereof subject to [the] supervision by authorized representatives of the board as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the meat or meat [products] product or animal and it is released under bond, or destroyed, court costs and fees[,], and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the meat or meat [products] product or animal.

(c) The circuit courts of the State are vested with jurisdiction specifically to enforce[,], and to prevent and restrain violations of this chapter[,], and shall have jurisdiction in all other kinds of cases arising under this chapter[,], provided [however,] that the district courts of the State shall have jurisdiction over misdemeanors committed under this chapter.

(d) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person [while] engaged in [or on account of] the performance of [his] official duties under this chapter shall be fined not more than [\$1,000] \$5,000 or imprisoned not more than three [months,] years, or both.

(e) Any person who violates any provision of this chapter for which no other criminal penalty is provided by this chapter shall be fined not more than \$1,000 or imprisoned not more than one year, or both, but if the violation involves intent to defraud[,], or any distribution or attempted distribution of meat or meat [products] product that [are] is adulterated, the person shall be fined not more than \$10,000 or imprisoned for not more than three years, or both; provided that no person shall be subject to penalties under this section for receiving for transportation any meat or meat [products] product or animal in violation of this chapter if the receipt was made in good faith, unless the person

refuses to furnish on request of a representative of the board the name and address of the person from whom [he received] the meat or meat [products] product or animal[,] was received and copies of all documents, if any there be, pertaining to the delivery of the meat or meat [products] product or animal [to him].

(f) Nothing in this chapter shall be construed as requiring the board to report for prosecution or injunction proceedings[, or] minor violations of this chapter whenever it believes that the public interest will be adequately served by a suitable written notice of warning.

(g) Any person [that shall neglect or refuse] who neglects or refuses to attend and testify or to answer any lawful inquiry[, or] to produce documentary evidence, if in [his or its] that person's power to do so[, in obedience to the subpoena or lawful requirement of the board, shall be guilty of an offense and, upon conviction thereof by a court of competent jurisdiction, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(h) Any person [that shall wilfully make, or cause] who wilfully makes, or causes to be made, any false entry or statement of fact in any report required to be made under this chapter, or [that shall wilfully make, or cause] who wilfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to this chapter, or [that shall wilfully neglect or fail to make, or to cause] wilfully neglects or fails to make, or causes not to be made, full, true, and correct entries in the accounts, records, or memoranda[, of all facts and transactions appertaining to the business of the person, or [that shall wilfully remove] wilfully removes out of the jurisdiction of the State, or wilfully [mutilate, alter,] mutilates, alters, or by any other means [falsify] falsifies any documentary evidence of any person, or [that shall] wilfully [refuse] refuses to submit to the board or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any person in [his] the person's possession or within [his] the person's control, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(i) If any person required by this chapter to file any annual or special report [shall fail] fails to do so within the time fixed by the board [for filing the same,] and the failure [shall continue] continues for thirty days after notice of default, [the] that person shall forfeit to [this] the State the sum of \$100 for each [and every] day of the continuance of the failure, which forfeiture shall be payable into the State general fund[, and shall be recoverable in a civil suit in the name of the State brought in the county where the [person has his] person's principal office is located or in any county in which [he shall do] the person does business. It shall be the duty of the [various] county attorneys or corporation counsel of the respective counties within the State, upon request of the attorney general, to prosecute for the recovery of the [forfeiture.] forfeitures.

(j) Any officer or employee of the State who [shall make] makes public any confidential information obtained by the board, unless directed by a court, shall be fined not more than \$1,000[, or] imprisoned not more than one year, or both."

SECTION 4. Section 159-47, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 207

H.B. NO. 1969-86

A Bill for an Act Relating to Inspection of Poultry and Poultry Products.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 161, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

“§161- Enforcement. (a) Inspectors shall enforce this chapter and related rules adopted by the department.

(b) Inspectors shall be provided with suitable badges or insignia of office by the department, and shall have power to detain or impound poultry or poultry product that is in violation of this chapter. The division head of the division of animal industry of the department or the division head's designees shall have the power to serve and execute warrants in all matters relating to the poultry inspection laws, to issue a citation for any violation of this chapter and related rules.

§161- Citation and summons. (a) There shall be a printed form of citation and summons for use in citing violators warning the person to appear and answer the charge against the person at a certain place and at a time within seven days after the citation. The citation and summons shall be so designed to include all necessary information to make it valid and legal within the laws and rules of the State. The form and content of the citation and summons shall be adopted or prescribed by the district courts.

(b) In every case when a citation and summons is issued, the original of the same shall be given to the accused; provided that the district courts may prescribe the issuance to the accused of a carbon copy of the citation and summons and provide for the disposition of the original and any other copies.

(c) Every citation and summons shall be consecutively numbered and each carbon copy shall bear the number of its original.

§161- Administration of oath. When a complaint is made to any prosecuting officer of the violation of this chapter or the rules adopted pursuant thereto, the division head or the division head's designee who issued the citation and summons shall subscribe to the complaint under oath.

§161- Failure to obey summons. (a) Any person who fails to appear at the place and time specified in the citation and summons issued to that person by the division head or the division head's designee upon the person's citation for violation of the poultry inspection laws or rules shall be guilty of a misdemeanor and, upon conviction, fined not more than \$500 or imprisoned not more than six months, or both.

(b) If any person fails to comply with a citation and summons issued to that person, the division head or the division head's designee shall cause a complaint to be entered against the person and secure the issuance of a warrant for that person's arrest.

(c) When a complaint is made to any prosecuting officer of the violation of any provision of this chapter or any rule adopted thereunder, the division head or the division head's designee who issued the complaint and summons shall subscribe to it under oath.”

SECTION 2. Section 161-3, Hawaii Revised Statutes, is amended by amending the definition of "person" to read as follows:

"Person" [is defined in the manner set forth in section 1-19.] means any individual, firm, corporation, association, or partnership, or any organized group of persons whether incorporated or not."

SECTION 3. Section 161-47, Hawaii Revised Statutes, is amended to read as follows:

"[[§161-47[]] Penalties; prosecution. (a) Whenever any carcass, part of a carcass, poultry, or poultry product or any product exempted from the definition of a poultry product[,] is found by any authorized representative of the board upon any premises where it is held for purposes of, or during or after distribution in, intrastate commerce[,] and there is reason to believe that any poultry or poultry product is adulterated or misbranded and is capable of use as human food, or that it has not been inspected[,] in violation [of the provisions] of this chapter or of the Federal Wholesome Poultry Products [Inspection] Act or the Hawaii or Federal Food, Drug, and Cosmetic Act, or that the poultry or poultry product has been or is intended to be[,] distributed in violation of any such provisions, it may be detained by [such] the representative for a period not to exceed twenty days, pending action or notification of any federal authorities having jurisdiction over [such] the poultry or poultry [products,] product, and shall not be moved by any person from the place at which it is located when [so] detained[,] until released by [such] the representative. All official marks may be required by the representative to be removed from the poultry or poultry product before it is released unless it appears to the satisfaction of the board that the poultry or poultry product is eligible to retain [such] the marks.

(b) Any carcass, part of a carcass, poultry, or poultry product or any dead, dying, disabled, or diseased poultry that is being transported in intrastate commerce[,] or is held for sale in [this] the State after [such transportation,] being so transported and that (1) is or has been [processed,] prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter, or (2) is capable of use as human food and is adulterated or misbranded, or (3) in any other way is in violation of this chapter, shall be liable to be proceeded against and seized and condemned, at any time, in any circuit court within the jurisdiction of which the poultry or poultry product is found. If the poultry or poultry product is condemned, it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees[,] and storage and other proper expenses, shall be paid into the general fund of [this] the State, but the poultry or poultry product shall not be sold contrary to [the provisions of] this chapter[,] or the Federal Wholesome Poultry Products [Inspection] Act or the Hawaii or Federal Food, Drug, and Cosmetic Act; provided that[,] upon the execution and delivery of a good and sufficient bond [conditioned] issued on the condition that the poultry or poultry product shall not be sold or otherwise disposed of contrary to [the provision of] this chapter[,] or the laws of the United States, the court may direct that [such] the poultry or poultry product be delivered to the owner thereof subject to [such] supervision by authorized representatives of the board as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the poultry or poultry product and it is released under bond, or destroyed, court costs and fees[,] and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the poultry or poultry product.

(c) The circuit courts of the State are vested with jurisdiction specifically to enforce[,] and to prevent and restrain violations of this chapter[,] and shall have jurisdiction in all other kinds of cases [as may be provided by law.] arising under this chapter; provided that the district courts of the State shall have jurisdiction over misdemeanors committed under this chapter.

(d) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person engaged in the performance of official duties under this chapter shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

(e) Any person who violates any provision of this chapter for which no other criminal penalty is provided by this chapter shall be fined not more than \$1,000 or imprisoned not more than one year, or both, but if the violation involves intent to defraud or any distribution or attempted distribution of poultry [and] or poultry [products] product that is adulterated, the person shall be fined not more than \$10,000 or imprisoned not more than three years, or both; provided that no person shall be subject to penalties under this section for receiving for transportation any poultry or poultry [products] product in violation of this chapter if [such] the receipt was made in good faith, unless [such] the person refuses to furnish on request of a representative of the board the name and address of the person from whom [he received such] the poultry or poultry product[,] was received and copies of all documents, if any there be, pertaining to the delivery of the poultry or poultry [products.] product.

(f) Nothing in this chapter shall be construed as requiring the board to report for prosecution or injunction proceedings[,] minor violations of this chapter whenever it believes that the public interest will be adequately served by a suitable written notice of warning.

(g) Any person who neglects or refuses to attend and testify or to answer any lawful inquiry[,] or to produce documentary evidence, if in [his] that person's power to do so[,] in obedience to the subpoena or lawful requirement of the board, shall be guilty of an offense and, upon conviction thereof by a court of competent jurisdiction, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(h) Any person who [willfully] wilfully makes, or causes to be made, any false entry or statement of fact in any report required to be made under this chapter, or who [willfully] wilfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person[,] subject to this chapter, or [willfully] wilfully neglects or fails to make, or causes not to be made, full, true, and correct entries in [such] the accounts, records, or memoranda[,] of all facts and transactions appertaining to the business of [such] the person, or [willfully] wilfully removes out of the jurisdiction of [this] the State, or [willfully] wilfully mutilates, alters, or by any other means falsifies any documentary evidence of any [such] person, or [willfully] wilfully refuses to submit to the board or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any [such] person in [his] the person's possession or within [his] the person's control, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(i) If any person required by this chapter to file any annual or special report fails to do so within the time fixed by the board and the failure continues for thirty days after notice of [such] default, [he] that person shall forfeit to [this] the State the sum of \$100 for each day of the continuance of [such] the failure, which forfeiture shall be payable into the State general fund and shall be recoverable in a civil suit in the name of the State brought in the county where the [person has his] person's principal office is located or in any county in which

[he] the person does business. It shall be the duty of the county attorneys or corporation counsel of the respective counties within the State, upon request of the attorney general, to prosecute for the recovery of [such] the forfeitures.

(j) Any officer or employee of [this] the State who makes public any confidential information obtained by the board, unless directed by a court, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 208

H.B. NO. 2010-86

A Bill for an Act Relating to the Advisory Commission on Employment and Human Resources.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 222-2, Hawaii Revised Statutes, is amended to read as follows:

"§222-2 Duties of the center. The center shall:

- (1) Serve as a research arm of the commission on the year 2000, the [commission on manpower and full employment,] advisory commission on employment and human resources, and such other public agencies as may properly require its services and assistance in locating research experts for particular studies and in working out the dimensions and contractual arrangements for such studies, the costs and final decisions of which shall be the responsibility of the requesting agencies.
- (2) Encourage and promote invention and experimentation in futures study, planning, and design.
- (3) Maintain an inventory of studies, research, and other information, including groups or persons concerned with futures study, planning, and design applicable to the State.
- (4) Engage in the development and acquisition of models, techniques, and other tools, and capability for the effective monitoring, measuring, and forecasting of crucial aspects of Hawaii's socio-economic environmental system over the immediate, intermediate, and long range future, including the design of systems to assist and stabilize the State's construction industry."

SECTION 2. Section 305A-4, Hawaii Revised Statutes, is amended to read as follows:

"§305A-4 Vocational education coordinating advisory council. There is established a vocational education coordinating advisory council which shall serve in an advisory capacity to the board of regents. The council shall consist of eleven members, nine appointed and two ex officio voting members. Of the nine appointed members, three shall be appointed from the board of regents of the

University of Hawaii by the chairman of that body, three shall be appointed from the board of education by the chairman of that body, and three shall be appointed from the [state commission on manpower and full employment] advisory commission on employment and human resources by the chairman of that body. Of the three members appointed from the [commission on manpower and full employment,] advisory commission on employment and human resources, one member shall represent management, one member shall represent labor, and the third shall represent the public. Of the two ex officio members one shall be the president of the University of Hawaii and the other shall be the superintendent of education.

Of the three members first appointed by each appointing authority, other than the chairman of the board of education, one shall be appointed for two years, one shall be appointed for three years, and one shall be appointed for four years. In the case of the members appointed from the board of education, the terms of such members shall be for their remaining terms as members of the board of education. Upon the expiration of the terms of the first members, their successors shall serve for a term of four years. Vacancies shall be filled by the appropriate appointing authority for the unexpired term.

The council shall elect a chairman and such other officers as it deems necessary. Section 92-15 shall apply. The members of the council shall serve without pay but shall be entitled to their traveling expenses within the State when attending meetings of the council or when actually engaged in business relating to the work of the council."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

ACT 209

H.B. NO. 2013-86

A Bill for an Act Relating to Land Fire Protection.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 185-4, Hawaii Revised Statutes, is amended to read as follows:

"§185-4 Payment for fire fighting. (a) No federal or county agency summoned by a fire warden to assist in extinguishing a fire shall be reimbursed for expenses incurred in such fire fighting.

(b) No owner, lessee, or occupier of any lands upon which a fire has occurred, nor any employee of such persons, nor any person who has any vested interest in and to the lands or his employees shall be entitled to the compensation provided for in this chapter, for his services and materials rendered in and upon the land in the extinguishment of any fire; provided the prohibition contained in this paragraph shall not apply to owners or persons holding interests to any lands which have been surrendered to the department of land and natural resources under agreement as a public forest reserve for a period of ten years or more or as a public shooting ground for a period of five years or more or to any owner who suffered a fire as a result of his allowing his land to be used by the general public without compensation.

The department shall pay all expenses for wages of persons, use of equipment, supplies, or materials summoned or used by the state forester, or a fire warden, for controlling and extinguishing any fire coming within the meaning of this chapter.

(c) All expenses incurred in controlling or extinguishing a fire by the state forester, or a fire warden, shall be payable from the [fire fighter's contingent] firefighter's contingency fund, provided the fire suppression budget is exceeded, and the owner, lessee, or agency having control over the lands has not been negligent in starting or failing to control or extinguish a fire. Any person, agency, or corporation summoned by the state forester, or a fire warden to assist in extinguishing a fire eligible under this chapter to claim for reimbursement for wages, equipment use, supplies, or materials must submit an itemized statement of such claims to the chief fire warden through the district fire warden within sixty days after the fire has been extinguished in order to have it honored.

(d) There shall be a [fire fighter's] firefighter's contingency fund established under the control of the department of land and natural resources and the amount of [\$200,000] \$250,000 shall be appropriated each fiscal year to this fund. Any unused portion shall lapse at the end of the fiscal year."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

ACT 210

H.B. NO. 2016-86

A Bill for an Act Relating to Fishing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 188-25, Hawaii Revised Statutes, is amended to read as follows:

"§188-25 Fishing with firearms, spears. (a) [It is unlawful for any person to] No person shall pursue, take, or kill any turtle, crustacean, mollusk, aquatic mammal, or fish [other than], except tuna and billfish that have been caught and gaffed and sharks, in the [waters of the] State with firearms as defined in section 134-1 [or to].

(b) No person shall pursue, take, or kill any crustacean (except introduced freshwater prawns), turtle, or aquatic mammal in the State with a spear.

[(b)] (c) Any crustacean, mollusk, aquatic mammal, or fish taken or killed or offered for sale in violation of this section shall be confiscated and offered as evidence. [For the purpose of this section, "spear-gun" means any artificial device used to propel a spear or spears by means of compressed air or gas, elastic, spring, or any motive power.]

[(c)] (d) [It is unlawful for any person to] No person shall take any fish by the use of spears, or [have in his possession] possess any speared fish which is smaller than the minimum size for fish specified in section 188-40 and any person violating this provision for the first time shall receive a citation. Any subsequent violation shall be punished as provided for¹ in section 188-70; provided that the first [such] subsequent violation shall be considered a first violation for the purpose of section 188-70."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

Note

1. "For" should be underscored.

ACT 211

H.B. NO. 2044-86

A Bill for an Act Relating to Sanctions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 437B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§437B- Cumulative penalties. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 2. Chapter 438, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§438- Disciplinary actions. (a) The board may take disciplinary action against any certificate issued under this chapter, including but not limited to revocation, suspension, fine, or a combination thereof, or refuse to grant or renew any certificate for any of the following causes:

- (1) Procuring a certificate through fraud, misrepresentation, or deceit;
- (2) Professional misconduct, gross negligence, or manifest incapacity;
- (3) Permitting an uncertified person to perform activities which require a certificate under this chapter;
- (4) Violation of this chapter or the rules adopted pursuant thereto;
- (5) Making any false representation or promise through advertising or otherwise;
- (6) Failing to display the certificate as provided in this chapter;
- (7) Any other conduct constituting fraudulent or dishonest dealings;
- (8) Failure to comply with a board order; or
- (9) Making a false statement on any document submitted or required to be filed by this chapter.

(b) Any person who violates this chapter or the rules adopted pursuant thereto shall be fined not less than \$100 nor more than \$1,000 for each violation.

(c) Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 3. Chapter 438, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§438- Right of injunction. The department of commerce and consumer affairs may, in addition to any other remedies available, apply to a court having competent jurisdiction for an injunction to restrain any violation of this chapter."

SECTION 4. Section 438-5, Hawaii Revised Statutes, is amended to read as follows:

"§438-5 Powers and duties of the board. (a) The board of barbers may give examinations for the issuance of certificates of registration to practice barbering; grant, revoke, or suspend [such] certificates; establish, subject to chapter 91 and with the approval of the governor and the director of commerce and consumer affairs, rules governing the practice of barbering which shall have the force and effect of law.

[(b) The board may suspend or revoke a certificate of a person guilty of fraud in passing the examination or at any time guilty of grossly unprofessional or dishonest conduct, or addicted to liquor or drugs to such a degree as to render the person unfit to practice any of the occupations classified under this chapter, or knowingly advertising by means of false or deceptive statements, or failing to display the certificates as provided in section 438-9.]

[(c)] (b) The board may require the attendance of witnesses and the production of [such] books, records, and papers as it or any person involved may desire at any hearing of any matter which the board has authority to investigate, and for the purpose may require the executive secretary to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers directed to the sheriff or chief of police of the county where [such] the witness resides or is found which shall be served and returned in the same manner as a subpoena in a criminal case. Fees and mileage shall be paid from the funds in the state treasury for the use of the board in the same manner as other expenses of the board.

[(d)] (c) Any investigation, inquiry, or hearing which the board is empowered by law to hold or undertake may be held or undertaken by or before any member or members of the board or an appointed hearings officer and the finding or order of that member, members, or hearings officer shall be deemed to be the finding or order of the board when approved and confirmed by it."

SECTION 5. Chapter 457B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§457B- Remedies or penalties cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 6. Chapter 459, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§459- Remedies or penalties cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 7. Section 460-14.5, Hawaii Revised Statutes, is amended to read as follows:

"[[§460-14.5]] Disciplinary action. In disciplining a licensee in a proceeding under section 460-12, the board may impose one or more of the following actions:

- (1) Place the licensee on probation, including [such] conditions of probation as requiring observation of the licensee by an appropriate group or society of licensed osteopathic physicians and surgeons;
- (2) Suspend the license;

- (3) Revoke the license;
- (4) Limit the license by restricting the fields of practice in which the licensee may engage;
- (5) Fine the licensee, including assessment against the licensee of the costs of the disciplinary proceedings[;]. Any fine imposed by the board after a hearing in accordance with chapter 91 shall be not less than \$500 nor more than \$5,000 for each violation exclusive of the costs of the disciplinary proceedings;
- (6) Temporarily suspend the license for not more than thirty days without a hearing, when the board finds the practice of the licensee probably constitutes an immediate and grave danger to the public; or
- (7) Require further education or training or require proof of performance competency."

SECTION 8. Section 460-15, Hawaii Revised Statutes, is amended to read as follows:

"§460-15 [Restoration of license. At any time following the suspension or revocation of a license, the board may restore such license with all of its original rights and privileges.] Remedies or penalties cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws in this State."

SECTION 9. Section 466-11, Hawaii Revised Statutes, is amended to read as follows:

"§466-11 Measures against violation. (a) [Injunctions.] Whenever the board has reason to believe that any person has engaged, or is about to engage, in any act or practice which constitutes, or will constitute, a violation of section 466-10, the board may certify the facts underlying [such] the belief to the attorney general of this State, who shall make application to the appropriate court for an order enjoining [such] the act or practice, and upon a showing that [such] the person has engaged, or is about to engage, in any [such] act or practice, an injunction, restraining order or [such] other order as may be appropriate shall be granted by [such] the court without bond.

(b) [Criminal penalties.] Any person who violates any provision of section 466-10 shall be guilty of a misdemeanor. Whenever the board has reason to believe that any person is liable to punishment under this section it may certify the facts underlying [such] the belief to the county attorney or prosecuting attorney of the county in which the violation occurred who shall cause appropriate proceedings to be brought.

(c) Any person violating this chapter shall be fined not more than \$1,000 for each violation.

[(c)] (d) [Evidence of practice.] The display or uttering by a person of a card, sign, advertisement, or other printed, engraved, or written instrument or device bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, of the words "public accountant" or any abbreviation thereof, shall be prima facie evidence in any action brought under subsection (a) or [subsection] (b) of this section that the person whose name is so displayed caused or procured the display or uttering of [such] the card, sign, advertisement, or other printed, engraved, or written instrument or device and that [such] the person is holding [himself] oneself out to be a certified public accountant or public accountant holding a current permit to practice

issued under section 466-7. In any [such] action, evidence of the commission of a single act prohibited in section 466-10 shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

(e) Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 10. Chapter 468E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§468E- Cumulative remedies or penalties. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws in this State."

SECTION 11. Chapter 468E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§468E- Right of injunction. The department of commerce and consumer affairs may, in addition to any other remedies available, apply to a court having competent jurisdiction for an injunction to restrain any violation of this chapter."

SECTION 12. Section 468E-13, Hawaii Revised Statutes, is amended to read as follows:

"[[§468E-13] Suspension and revocation of license.] **Disciplinary action.** (a) The board may [refuse to issue or renew a license, or may suspend or revoke a license where the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct may result from:] **take disciplinary action against any licensee, including but not limited to revocation, suspension, fine, or a combination thereof, or refuse to issue or renew a license for any of the following causes:**

- (1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
- (2) [Being guilty of unprofessional conduct as defined by the rules established by the board, or violating the Code of Ethics adopted and published by the board;] **Professional misconduct or unethical conduct;**
- (3) [Violating any lawful order, rule, or regulation rendered or adopted by the board;] **Conduct constituting fraudulent or dishonest dealings;**
- (4) Violating any provision of [the] **this chapter[.] or rules adopted pursuant thereto;**
- (5) **Failure to comply with a board order; or**
- (6) **Making a false statement on any document submitted or required to be filed by this chapter.**

(b) [The board shall deny any application for, or suspend, revoke, or impose probationary conditions upon a license as ordered by the board in any decision made after hearing as provided in this chapter. One year from the date of revocation of a license under this section, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may require an examination for such reinstatement.] **Any person who violates this chapter or the rules adopted**

pursuant thereto shall be fined not more than \$1,000 and each day a violation exists, failure to comply with this chapter shall constitute a separate violation."

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 14. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 212

H.B. NO. 2049-86

A Bill for an Act Relating to Chiropractic.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 442-9, Hawaii Revised Statutes, is amended to read as follows:

"§442-9 License refusal, revocations, suspension, fine, limitation, restriction, probation, reissuance. (a) The board of chiropractic examiners shall refuse to issue or may order any license issued under this chapter to be revoked, suspended, limited, restricted, or placed under probation at any time in a proceeding before the board [upon] or fine a licensee for any one or more of the following grounds:

- (1) Procuring or aiding or abetting in procuring a criminal abortion;
- (2) Employing what is popularly known as a "capper" or "steerer";
- (3) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
- (4) Wilfully betraying a professional secret;
- (5) Making any untruthful statement in advertising one's practice or business under this chapter;
- (6) False, fraudulent, or deceptive advertising;
- (7) Advertising directly or indirectly, or in substance upon any card, sign, newspaper advertisement, or other written or printed sign of advertisement that the holder of [such] a license or [his] the licensee's employer or employee will treat, cure, or attempt to treat or cure any venereal disease, or will treat or cure, or attempt to treat or cure, any person afflicted with any sexual disease, lost manhood, sexual weakness, or sexual disorder or any disease of the sexual organs;
- (8) Being habitually intemperate;
- (9) Habitually using any habit-forming drug, such as opium, or any of its derivatives, morphine, heroin, cocaine, or any other habit-forming drug;
- (10) The advertising of any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed;
- (11) Procuring a license through fraudulent misrepresentation or deceit;
- (12) Professional misconduct or gross carelessness or manifest incapability in the practice of chiropractic;
- (13) Violating section 453-2[.]; and

- (14) Knowingly recording, registering, or filing, or offering for recordation, registration, or filing, with the department of commerce and consumer affairs any written statement which has been falsely made, completed, or altered, or in which a false entry has been made, or which contains a false statement or false information.

(b) At any time following the suspension, [revocation,] fine, limitation, restriction, or placement under probation of a license, the board may restore the license with all of its original rights and privileges. Any person to whom these rights have been restored shall pay [to the secretary] a restoration fee upon the [issuance of a new license.] reissuance of the license.

(c) Any person making application for reinstatement or restoration of a license or the original rights and privileges to practice under a license which has been [revoked,] suspended, restricted, limited, or placed under probation may be required, as part of the relief granted, to complete an approved course of continuing education or to complete such study or training as the board may require.

(d) Any person who violates this chapter or the rules adopted pursuant thereto shall be fined not more than \$1,000."

SECTION 2. Section 442-19, Hawaii Revised Statutes, is amended to read as follows:

"§442-19 Violations, penalty. Any person who practices or attempts to practice chiropractic, or any person who buys, sells, or fraudulently obtains a license to practice chiropractic, whether recorded or not, or who uses the title "chiropractor" or "D.C.", or any word or title to induce, or tending to induce belief that [he] the person is engaged in the practice of chiropractic, without first complying with this chapter; or any licensee under this chapter who uses the word "doctor" or the prefix "Dr." without the word "chiropractor" or "D.C." immediately following [his] the licensee's name, or uses the letter "M.D." or the words "doctor of medicine", or the term "surgeon", or the term "physician", or the term "osteopath", or the letters "D.O.", or any other letters, prefixes, or suffixes, the use of which would indicate that [he was] the licensee is practicing a profession for which [he] the licensee holds no license from the State, or any person who violates any of the provisions of this chapter, shall be fined not [less than \$50 nor] more than [\$200,] \$1,000, or imprisoned not [less than thirty days nor] more than ninety days, or both."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

ACT 213

H.B. NO. 2074-86

A Bill for an Act Relating to Traffic Violations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-51, Hawaii Revised Statutes, is amended to read as follows:

"[] §291-51[] Definitions. As used in this part, the following terms have the following meanings:

"Certificate of disability" means a medical statement issued by a licensed practicing physician, either in private practice or with a governmental agency, which verifies that a person is a disabled person.

"Disabled person" means any person:

- (1) Who has lost the use of one or both lower extremities;
- (2) Who is so severely disabled as to require the use of a mechanical device, including a wheelchair, a walker, crutches, or a brace to aid mobility;
- (3) Who is restricted by a lung disease to such an extent that the person's forced (respiratory) expiratory volume of¹ one second, when measured by spirometry, is less than one liter, or the person's arterial oxygen tension $[(\text{PO}_2)]$ ($\text{P}_{\text{a}}\text{O}_2$) is less than 60 mm/hg on room air at rest;
- (4) Who has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or
- (5) Who has a diagnosed disease or disorder, including a severe arthritic, neurological, or orthopedic impairment, which creates a severe mobility limitation."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

Note

1. So in original.

ACT 214

H.B. NO. 2103-86

A Bill for an Act Relating to Controlled Substances.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 329-1, Hawaii Revised Statutes, is amended by amending the definition of "Bureau" to read:

" "Bureau" or "DEA" means the [Bureau of Narcotics and Dangerous Drugs,] Drug Enforcement Administration, United States Department of Justice, or its successor agency."

SECTION 2. Section 329-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- (2) Alfentanil;
- (3) Allylprodine;
- (4) Alphacetylmethadol;
- (5) Alphameprodine;

- (6) Alphamethadol;
- (7) Alpha-Methylfentanyl;
- (8) Benzethidine;
- (9) Betacetylmethadol;
- (10) Betameprodine;
- (11) Betamethadol;
- (12) Betaprodine;
- (13) Clonitazene;
- (14) Dextromoramide;
- (15) Diampromide;
- (16) Diethylthiambutene;
- (17) Difenoxin;
- (18) Dimenoxadol;
- (19) Dimepheptanol;
- (20) Dimethylthiambutene;
- (21) Dioxaphetyl butyrate;
- (22) Dipipanone;
- (23) Ethylmethylthiambutene;
- (24) Etonitazene;
- (25) Etoxeridine;
- (26) Furethidine;
- (27) Hydroxypethidine;
- (28) Ketobemidone;
- (29) Levomoramide;
- (30) Levophenacetylmorphan;
- (31) Morpheridine;
- (32) Noracymethadol;
- (33) Norlevorphanol;
- (34) Normethadone;
- (35) Norpipanone;
- (36) Parahexyl;
- (37) Phenadoxone;
- (38) Phenampromide;
- (39) Phenomorphan;
- (40) Phenoperidine;
- (41) Piritramide;
- (42) Proheptazine;
- (43) Properidine;
- (44) Propiram;
- (45) Racemoramide;
- (46) Tilidine;
- (47) Trimerperidine[.];
- (48) N-[1-(1-methyl-2-phenyl)ethyl-4-piperidyl]-N-phenylacetamide (acetyl-alpha-methylfentanyl);
- (49) N-[1-(1-methyl-2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (alpha-methylthiofentanyl);
- (50) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl);
- (51) N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (beta-hydroxyfentanyl);
- (52) N-[3-methyl-1-(2-hydroxy-2-phenyl)-ethyl-4-piperidyl]-N-phenylpropanamide (beta-hydroxy-3-methylfentanyl);
- (53) N-[3-methyl-1-(2-(2-thienyl) ethyl-4-piperidyl)-N-phenylpropanamide (3-methylthiofentanyl);

- (54) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thienyl-fentanyl):
 (55) N-[1-(2-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (thiofentanyl)."

SECTION 3. Section 329-14, Hawaii Revised Statutes is amended by amending subsection (d) to read as follows:

"(d) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) 2,5-dimethoxyamphetamine (2,5-DMA);
 (2) 3,4-methylenedioxy amphetamine;
 (3) 3,4-methylenedioxymethamphetamine (MDMA);
 (4) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP);
 [(3)] (5) 5-methoxy-3,4-methylenedioxy-amphetamine;
 [(4)] (6) 4-bromo-2, [5 dimethoxyamphetamine] 5-dimethoxy-amphetamine (4-bromo-2, 5-DMA);
 (7) 1-(2 phenylethyl)-4-phenyl-4-acetyloxypiperidine (PEPAP);
 [(5)] (8) 3,4,5-trimethoxy amphetamine;
 [(6)] (9) Bufotenine;
 [(7)] (10) 4-methoxyamphetamine (PMA);
 [(8)] (11) Fenethylamine;
 [(9)] (12) Diethyltryptamine;
 [(10)] (13) Dimethyltryptamine;
 [(11)] (14) 4-methyl-2, [5-dimethoxyamphetamine;] 5-dimethoxy-amphetamine;
 [(12)] (15) Ibogaine;
 [(13)] (16) Lysergic acid diethylamide;
 [(14)] (17) Marijuana;
 [(15)] (18) Mescaline;
 [(16)] (19) Peyote;
 [(17)] (20) N-ethyl-3-piperidyl benzilate;
 [(18)] (21) N-methyl-3-piperidyl benzilate;
 [(19)] (22) Psilocybin;
 [(20)] (23) Psilocyn;
 [(21)] (24) Tetrahydrocannabinols;
 [(22)] (25) Ethylamine analog of phencyclidine (PCE);
 [(23)] (26) Pyrrolidine analog of phencyclidine [(PcPy, PHP);] (PCPy, PHP);
 [(24)] (27) Thiophene analog of phencyclidine [(TPCP).] (TPCP;TCP)."

SECTION 4. Section 329-34, Hawaii Revised Statutes, is amended to read as follows:

"§329-34 Revocation and suspension of registration. (a) A registration under section 329-33 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the department upon a finding that the registrant:

- (1) Has furnished false or fraudulent material information in any application filed under this chapter;
 (2) Has been convicted of a felony or has been granted a motion for the deferral of acceptance of a guilty plea or a nolo contendere plea to a

felony, pursuant to chapter 853 and under any State or Federal law relating to any controlled substance;

- (3) Has had his federal registration suspended or revoked to manufacture, distribute, prescribe, or dispense controlled substances; or
- (4) Has had his state license to practice his profession suspended or revoked by the applicable governing state board.

(b) The department may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) If the department suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the State.

(d) The department shall promptly notify the Bureau of all orders suspending or revoking registration and all forfeitures of controlled substances."

SECTION 5. Section 329-35, Hawaii Revised Statutes, is amended to read as follows:

"[[§329-35[]] **Order to show cause.** (a) Before denying, suspending, or revoking a registration, or refusing a renewal of registration, the department shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the department at a time and place not less than thirty days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty days before the expiration of the registration. These proceedings shall be conducted in accordance with chapter 91 without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(b) The department may suspend any registration simultaneously with the institution of proceedings under section 329-34, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the department or dissolved by a court of competent jurisdiction.

(c) The department of health may subpoena and examine witnesses under oath upon all such charges as may be preferred before it, and the circuit court of the circuit in which the hearing is held shall enforce by appropriate order the attendance and testimony of witnesses so subpoenaed."

SECTION 6. Section 329-38, Hawaii Revised Statutes, is amended to read:

"§329-38 **Prescriptions.** (a) No controlled substance in Schedule II may be dispensed without a written prescription of a practitioner, except:

- (1) In an emergency situation, those drugs may be dispensed upon oral prescription of a practitioner, provided that promptly thereafter the

prescription is reduced to writing by the practitioner and filed by the pharmacy; or

- (2) When dispensed directly by a practitioner, other than a pharmacist, to the ultimate user. The practitioner in dispensing a controlled substance in Schedule II shall affix to the package a label showing the date of dispensing, the name, strength, and quantity issued of the drug, the dispensing practitioner's name and address, the name of the patient, the date the potency of the drug expires if that date is available from the manufacturer or principal labeler, directions for use, and cautionary statements, if any, contained in the prescription or as required by law. Prescriptions and records of dispensing shall be retained in conformance with the requirements of section 329-36. No prescription for a controlled substance in Schedule II may be refilled.

(b) The transfer of original prescription information for a controlled substance listed in Schedules III, IV, or V for the purpose of refill dispensing is permissible between pharmacies on a one time basis subject to the following requirements:

- (1) The transfer shall be communicated directly between two licensed pharmacists and the transferring pharmacist shall:
 - (A) Write or otherwise place the word "VOID" on the face of the invalidated prescription;
 - (B) Record on the reverse of the invalidated prescription the name, address, and DEA registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information; and
 - (C) Record the date of the transfer and the name of the pharmacist transferring the information.
- (2) The pharmacist receiving the transferred prescription information shall:
 - (A) Write or otherwise place the word "transfer" on the face of the transferred prescription;
 - (B) Record all information required to be on a prescription, including:
 - (i) The date of issuance of original prescription;
 - (ii) The original number of refills authorized on original prescription;
 - (iii) The date of original dispensing;
 - (iv) The number of valid refills remaining and date of last refill;
 - (v) The pharmacy's name, address, DEA registration number, and original prescription number from which the prescription information was transferred; and
 - (vi) The name of transferor pharmacist;
- (3) Both the original and transferred prescription must be maintained for a period of two years from the date of last refill;
- (4) The procedure allowing the transfer of prescription information for refill purposes is permissible only between pharmacies located on the same island in this State.

Failure to comply with the provisions of this subsection shall void the authority of the pharmacy to transfer prescriptions or receive a transferred prescription to or from another pharmacy.

[(b)] (c) No controlled substance in Schedule III or IV may be dispensed without a written or oral prescription of a practitioner, except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user. The practitioner in dispensing a controlled substance in Schedule III and IV shall affix to the package a label showing the date of dispensing, the name, strength, and quantity issued of the drug, the dispensing practitioner's name and address, the name of the patient, the date the potency of the drug expires if that date is available from the manufacturer or the principal labeler, directions for use, and cautionary statements, if any, contained in the prescription or as required by law. Prescriptions and records of dispensing shall be retained in conformance with the requirements of section 329-36. Those prescriptions may not be filled or refilled more than three months after the date thereof or be refilled more than two times after the date of the prescription unless renewed by the practitioner.

[(c)] (d) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.

[(d)] (e) The effectiveness of a prescription for the purposes of this section shall be determined as follows:

- (1) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of this section, and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of the law relating to controlled substances.
- (2) A prescription may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients.
- (3) A prescription may not be issued for the dispensing of narcotic drugs listed in any schedule for "detoxification treatment" or "maintenance treatment".

[(e)] (f) Prescriptions for controlled substances shall be issued only as follows:

- (1) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, and the name, address, and registration number of the practitioner. A practitioner may sign a prescription in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by a secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by this section.

- (2) An intern, resident, or foreign-trained physician, or physician on the staff of a Veterans Administration facility, exempted from registration under this chapter, shall include on all prescriptions issued by him the registration number of the hospital or other institution and the special internal code number assigned to him by the hospital or other institution in lieu of the registration number of the practitioner required by this section. Each written prescription shall have the name of the physician stamped, typed, or handprinted on it, as well as the signature of the physician.
- (3) An official exempted from registration shall include on all prescriptions issued by him his branch of service or agency (e.g., "U.S. Army" or "Public Health Service") and his service identification number, in lieu of the registration number of the practitioner required by this section. The service identification number for a Public Health Service employee is his Social Security identification number. Each prescription shall have the name of the officer stamped, typed, or handprinted on it, as well as the signature of the officer.

[(f)] (g) A prescription for controlled substances may only be filled by a pharmacist acting in the usual course of his professional practice and either registered individually or employed in a registered pharmacy or registered institutional practitioner."

SECTION 7. Section 329-41, Hawaii Revised Statutes, is amended to read as follows:

"[[§329-41[]] Prohibited acts B-penalties. (a) It is unlawful for any person:

- (1) Who is subject to part III to distribute or dispense a controlled substance in violation of section 329-38; however, a licensed manufacturer or wholesaler may sell or dispense a controlled substance to a master of a transpacific ship or a person in charge of a transpacific aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board such ship or aircraft when not in port; provided Schedule I or II controlled substances shall be sold to the master of such ship or person in charge of such aircraft only in [pursuance of a special official written order approved by a commissioned medical officer or acting assistant surgeon of the United States public health service;] accordance with the provisions set forth in 21 Code of Federal Regulations, sections 1301, 1305, and 1307, adopted pursuant to title 21, United States Code, section 821;
- (2) Who is a registrant to manufacture a controlled substance not authorized by his registration or to distribute or dispense a controlled substance not authorized by his registration to another registrant or another authorized person;
- (3) To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this chapter;
- (4) To refuse any lawful entry into any premises for any inspection authorized by this chapter; or
- (5) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place for the purpose of using these substances or which is used for

keeping or selling them in violation of this chapter[.] or chapter 712, part IV.

(b) Any person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than \$5,000, or both."

SECTION 8. Section 329-55, Hawaii Revised Statutes, is amended to read as follows:

"§329-55 Forfeitures. (a) The following are subject to forfeiture:

- (1) All controlled substances which have been manufactured, cultivated, grown, distributed, dispensed, or acquired in violation of this chapter;
- (2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, cultivating, growing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;
- (3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2);
- (4) All conveyances, including aircraft, vehicles, or vessels which are used or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (1) or (2), but:
 - (A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;
 - (B) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent; and
 - (C) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission.
- (5) All books, records, and research products and materials, including formulas, microfilms, tapes, and data which are used, or intended for use, in violation of this chapter.
- (6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.
- (7) All firearms which are visible, carried during, or used in furtherance of a violation of this chapter or chapter 712, part IV.

(b) Property subject to forfeiture under this chapter may be seized by the department upon process issued by any circuit court having jurisdiction over the

property; provided that any county may, in addition to the department, seize motor vehicles under subsection (a)(4). Seizure without process may be made if:

- (1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;
- (2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding based upon this chapter;
- (3) The department or a county has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or
- (4) The department or a county has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of the seizure of property described in subsection (a)(1) to [(6),] (7), pursuant to subsection (b), proceedings under subsection (d) shall be instituted promptly. When property is seized under this chapter, the department shall report the fact of the seizure within ten days thereof to the prosecuting attorney of the county where the seizure was made. Within thirty days of the notification of the seizure, the prosecuting attorney shall cause to be filed in the circuit court in the county in which the property was seized, an action in rem, petitioning the court for forfeiture of the property. Upon the filing of the action, the court shall order the department to hold the property for further order of the court, and shall order that the owner of the seized property be served with notice of action. Notice of such action shall be made promptly in person, by registered mail, or by publication in accordance with section 634-23. At the expiration of twenty days after such notice, if no claimant has appeared, the court shall order the property forfeited to the State, to be disposed of by the department in a manner consistent with subsection (e).

If a claim is made in response to the petition for forfeiture within the twenty-day period, the court shall schedule a hearing, at which time the State shall prove by preponderance of evidence that the property was used, intended to be used, furnished, or acquired in violation of this chapter. At the conclusion of such hearing, the court shall order the property forfeited to the State; provided that if any claimant proves the claimant's right to an exception under subsection (a)(4)(A), (B), or (C) the court shall order the return of the property or such portion of the property that is proved to be encumbered, to the bona fide owner, lienholder, or mortgagee.

(d) Property, as described in subsection (a)(1) to [(6),] (7), taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the seizing authority subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When such property is seized under this chapter, the seizing authority may:

- (1) Place such property under seal;
- (2) Remove such property to a place designated by it; or
- (3) Require the sheriff to take custody of such property and remove it to an appropriate location for disposition in accordance with law.

If a county seizes property under subsection (a)(4) it shall immediately notify the department of the seizure, and shall relinquish the seized property to the department upon its request therefor. In the event the property is forfeited and the department does not request the property seized by the county, the property shall be disposed of by the county in a manner consistent with subsection (e).

(e) When property is forfeited under this chapter the department may:

- (1) Retain [it for official use;] the property or transfer it to the county and authorize its use in the enforcement of this chapter;
 - (2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs;
 - (3) Require the sheriff to take custody of the property and remove it for disposition in accordance with law; or
 - (4) Forward it to the bureau for disposition.
- (f) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the State. Controlled substances listed in Schedule I, which are seized or come into the possession of the State, the owners of which are unknown, are contraband and shall be summarily forfeited to the State.
- (g) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the State.
- (h) The failure, upon demand by the department, or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants."

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

ACT 215

H.B. NO. 2105-86

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** The purpose of this Act is to remove the State as guarantor when its interests in lands are subjected to a security interest or mortgage.

SECTION 2. Section 171-21, Hawaii Revised Statutes, is amended to read as follows:

"§171-21 Rights of holder of security interest. Whenever any notice of breach or default is given to any party under section 171-20, or under the terms of any lease, patent, license, agreement, or other instrument [heretofore] issued or [hereafter] to be issued under this chapter, a copy of the notice shall be delivered by the board of land and natural resources to all holders of record of any security interest in the land or interest covered by the lease, patent, license, agreement, or other instrument whose security interest has been recorded with the board. Should the board seek to forfeit the privilege, interest, or estate created by the lease, license, agreement, patent, or other instrument, each holder may, at its option, cure or remedy the breach or default, if the same can be cured

or remedied, by the payment of money or, if such is not the case, by performing or undertake in writing to perform all the terms, covenants, restrictions, or conditions of any lease, patent, license, agreement, or other instrument capable of performance by the holder, as determined by the board, within the time period provided in section 171-20 or within such additional period as the board may allow for good cause and add the cost thereof to the mortgage debt and the lien of the mortgage. Upon failure of the holder to exercise its option, the board may:

- (1) Pay to the holder from any [monies] moneys at its disposal, including the special land and development fund, which is made available for that purpose, the amount of the mortgage debt, together with interest and penalties, and secure an assignment of the debt and mortgage from the holder, or if ownership of the interest or estate shall then have vested in the holder by way of foreclosure or action in lieu thereof the board shall be entitled to a conveyance of the interest or estate upon payment to the holder of the amount of the mortgage debt, including interest and penalties, and all reasonable expenses incurred by the holder in connection with the foreclosure and preservation of its security interest, less appropriate credits, including income received from the privilege, interest, or estate subsequent to the foreclosure; or
- (2) [Terminate] If the property cannot be reasonably reassigned without loss to the State, then terminate the outstanding privilege, interest, or estate [subject to the lien of the mortgage,] without prejudice to any other right or remedy for arrears of rent or for any preceding or other breach or default, and [thereupon] use its best efforts to redispense of the [land] affected [thereby] land to a qualified and responsible person [who will assume the obligation] free and clear of the mortgage and the debt thereby secured; provided[,] that a reasonable delay by the board in instituting or prosecuting any right or remedy it may have [hereunder] under this section shall not operate as a waiver of the right or to deprive it of the remedy when it may still hope otherwise to resolve the problems created by the breach or default involved.

Section 171-19 to the contrary notwithstanding, the proceeds of any redispotion [effected hereunder] under paragraph (2) shall be applied[.]; first, to reimburse the board for costs and expenses in connection with the redispotion[.]; second, to discharge in full any unpaid purchase price or other indebtedness owing the State in connection with the privilege, interest, or estate terminated [as aforesaid, and the balance, if any, shall be paid]; third, to the mortgagee to the extent of the value received by the State upon redispotion which exceeds the fair market lease value of the land as previously determined by the State's appraiser; and fourth, to the owner of the privilege, interest, or estate. Nothing [herein] contained in this section shall be construed in a manner as to infringe upon or prejudice in any way the rights of a holder of record having a security interest which shall have vested prior to the effective date hereof, and to the extent that this section and section 171-98 shall or may conflict and adversely affect such interests, the same shall be of no force and effect."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

ACT 216

H.B. NO. 2108-86

A Bill for an Act Relating to Control of Petroleum Products.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 125C-4, Hawaii Revised Statutes, is amended to read as follows:

“§125C-4 Adopting, filing, and taking effect of rules. [When a shortage as defined in section 125C-2 exists,] The governor or the governor’s authorized representative shall adopt rules pursuant to chapter 91, to insure that petroleum products are made available to the public in an orderly, efficient, and safe manner, to become effective when a shortage, as defined in section 125C-2, exists. If additional and unforeseen measures are required to insure that petroleum products are distributed in an orderly, efficient, and safe manner, the governor or [his] the governor’s authorized representative may proceed without prior notice or hearing or upon such abbreviated notice and hearing as [he] the governor finds practicable to adopt additional rules authorized under this chapter with the additional rules to be effective for a period of not longer than one hundred twenty days without renewal. Any rule so adopted may be amended or repealed by the governor without prior notice or hearing or upon abbreviated notice and hearing prior to the expiration of the one-hundred-twenty-day period; provided that no amendment shall extend the rule beyond the original period of one hundred and twenty days. To be effective after the one-hundred-twenty-day period, [such] the rules shall be adopted pursuant to chapter 91. Each rule adopted, amended, or repealed shall become effective as adopted, amended, or repealed upon approval by the governor and filing with the lieutenant governor. Each rule in effect shall have force and effect of law, but the effect of each rule may be temporarily or indefinitely suspended by the governor by written declaration filed with the lieutenant governor. Each rule temporarily suspended shall take effect again immediately upon expiration of the suspension period. Each rule indefinitely suspended shall take effect immediately upon the filing with the lieutenant governor of the written declaration by the governor terminating the suspension.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

ACT 217

H.B. NO. 2112-86

A Bill for an Act Relating to Dentistry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 448-3, Hawaii Revised Statutes, is amended to read as follows:

"§448-3 Practice by unlicensed employee prohibited; penalty. (a) Except as provided in section 447-3, no person who manages or conducts as manager, proprietor, conductor, or otherwise a place where dental operations are performed, shall employ any person as operator in dental surgery or as a practitioner, or cause to permit any person to so act, who is not duly licensed to practice dentistry; provided that nothing in this chapter shall prohibit any unlicensed person from performing merely mechanical work upon inert matter in a dental laboratory.

(b) A duly licensed and registered dentist may employ auxiliary personnel, other than registered dental hygienists, to assist [him] the dentist in the practice of dentistry. [Such] These employees shall be known as dental assistants and shall perform all duties assigned to them under the [general] supervision, direction and responsibility of the dentist. Duties of the dental assistant and regulatory directives shall be delineated under rules [and regulations] which the board of dental examiners may from time to time adopt.

(c) Any person violating this section shall be fined not [more] less than \$100 nor more than \$1,000 for the first [offense, and for the second offense, in addition to the fine, shall forfeit his license to practice dentistry.] violation. Any person violating this section a second time shall be fined not less than \$500 nor more than \$2,000 and, in addition to the fine, the person's license shall be revoked."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

ACT 218

H.B. NO. 2123-86

A Bill for an Act Relating to Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 516-63, Hawaii Revised Statutes, is amended to read as follows:

"§516-63 Free assignability. Except as otherwise provided in section 516-35[,] and restrictions placed in leases by state or county agencies, a lessee may assign his lease at any time without the approval or consent of the lessor, and the assignee shall have the same rights and obligations under the lease as the original lessee; provided, that no such assignment shall be effective to transfer any interest in the lease unless the lessor has received (1) either a true executed copy of such assignment or written notice thereof, (2) a reasonable service charge, except in case of an assignment by way of mortgage or assignment to or by the Federal Housing Administration or Veterans Administration or the Federal National Mortgage Association or a foreclosure of mortgage or assignment in lieu of foreclosure, and (3) the written undertaking of the assignee to perform all obligations of the lessee under the lease, which undertaking may be incorporated in such assignment. No such assignment shall release the assignor from liability under the lease unless the lessor consents in writing to the assignment. A consent to the assignment shall be deemed a consent to the release of the assignor from liability under the lease. The lessor shall not require payment of any money for his consent except the service charge, nor withhold such consent

unreasonably. Any person acquiring the leasehold estate in consideration of the extinguishment of a debt secured by mortgage of the lease or through foreclosure sale, judicial or otherwise, shall be liable to perform the obligations imposed on the lessee by the lease only during the period such person has possession or ownership of the leasehold estate."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

ACT 219

H.B. NO. 2173-86

A Bill for an Act Relating to Emblems and Symbols.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that the sport of outrigger canoe paddling has significant historical and cultural importance and its survival and expansion over the years is a credit to the hundreds of individuals who have contributed in time, money, and energies to perpetuate and inspire its continuance.

The legislature also finds and declares that while this recognition is only symbolic in nature and does not have a binding effect on the budget and operations of state government, designating outrigger canoe paddling as an important Hawaiian tradition will encourage cooperative efforts to preserve this proud legacy.

The purpose of this Act is to designate outrigger canoe paddling as the official state team sport of Hawaii.

SECTION 2. Chapter 5, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§5- State team sport. Outrigger canoe paddling is adopted, established, and designated as the official team sport of the State, to be effective for as long as the legislature of the State does not otherwise provide."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 220

H.B. NO. 2201-86

A Bill for an Act Making an Appropriation for a Groundwater Protection Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. It is estimated that ninety per cent of Hawaii's drinking water is from ground water sources. Although several agencies and the private sector are doing ground water monitoring, no public agency has been clearly designated as the lead agency for ground water monitoring and enforcement. It is critical that the State understand the nature and extent of ground water contamination, and establish procedures to prevent future contamination in order to protect Hawaii's existing and future ground water sources of drinking water. The legislature finds that the establishment of a ground water protection program is a matter of compelling state interest, to protect and preserve the health of the people of the State. The department of health already has a broad mandate to protect ground water under chapter 342, Hawaii Revised Statutes. It is also recognized that the office of environmental quality control has been designated by the legislature to coordinate, review, evaluate, and make recommendations relating to pesticides ground water contamination and will be presenting final recommendations to the legislature in 1987. An interim product of the office of environmental quality control's water resources monitoring committee will be a ground water monitoring strategy and a need for health risk assessments.

The purpose of this Act is to provide resources to the department of health to implement this ground water monitoring strategy and to initiate baseline ground water monitoring and to establish a health risk assessment. The department shall also consider a reorganization of the environmental protection and health services division to support the development and implementation of a ground water protection program. The department's ground water protection program will be established within one year of the enactment of this Act in order to be able to implement the recommendations of the office of environmental quality control.

SECTION 2. By January 1987, the director of health shall submit to the legislature a draft groundwater strategy and plan. The plan shall: (1) identify the resources necessary to implement the program, and (2) set program goals and discuss activities to accomplish goals. The plan shall incorporate strategies for conducting program activities developed by the office of environmental quality control as mandated by Act 275, Session Laws of Hawaii 1984.

The department shall begin the development of a risk assessment program to implement the recommendations of the office of environmental quality control's subcommittee on risk.

Within twenty-four months after adoption, the director shall complete the development and implementation of a program for predicting, monitoring, and preventing ground water contamination. The department may adopt rules to implement this program.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$190,000, or so much thereof as may be necessary for fiscal year 1986-1987, to begin the development and implementation of a groundwater protection and risk assessment program to preserve clean groundwater for drinking and other uses, and to protect the health of the public who may be exposed to contamination.

SECTION 4. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 1986.

(Approved May 27, 1986.)

ACT 221

S.B. NO. 2266-86

A Bill for an Act Relating to Highway Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-151, Hawaii Revised Statutes, is amended to read as follows:

“§286-151 Implied consent of driver of motor vehicle to submit to testing to determine alcoholic content of blood. (a) Any person who operates a motor vehicle on the public highways of the State shall be deemed to have given consent, subject to this part, to a test approved by the director of transportation of the person’s breath or blood for the purpose of determining the alcoholic content of the person’s blood[; such person shall have the option to take a test of the person’s breath or blood, or both].

(b) The test or tests shall be administered at the request of a police officer having reasonable grounds to believe the person driving or in actual physical control of a motor vehicle upon the public highways is under the influence of intoxicating liquor or drugs¹ only after (1) a lawful arrest, and (2) the person has been informed by a police officer² of the sanctions of section 286-155.

(c) If there are reasonable grounds to believe that a person is in violation of section 291-4, then such person shall have the option to take a breath or blood test, or both, for the purpose of determining the alcoholic content of that person’s blood.”

SECTION 2. Section 286-156, Hawaii Revised Statutes, is amended to read as follows:

“§286-156 Hearing before a district judge. A hearing to determine the truth and correctness of an affidavit submitted to a district judge shall be held within twenty days after the district judge has received the affidavit.

The district judge shall hear and determine:

- (1) Whether the arresting officer had reasonable grounds to believe that either the person had been [either] driving or was in actual physical control of a motor vehicle [upon the highways] within this State while under the influence of intoxicating liquor;
- (2) Whether the person was lawfully arrested;
- (3) Whether the arresting officer had informed the person of the sanctions of section 286-155; and
- (4) Whether the person refused to submit to a test of his breath or blood.”

SECTION 3. Section 291-4, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) As used in this section the terms “driver,” “driver’s license,” and “examiner of drivers,” [and “vehicle”] shall have the same meanings as provided in section 286-2[.]; and the term “vehicle” shall have the same meaning as provided in section 291C-1.”

SECTION 4. Section 291-7, Hawaii Revised Statutes, is amended to read as follows:

“§291-7 Driving under the³ influence of drugs. [Whoever operates any vehicle while under the influence of any drug to a degree which renders him incapable of operating the vehicle in a careful and prudent manner shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

The fact that any person charged with a violation of this section is, or has been, legally authorized to use the drug shall not constitute a defense to such charge.] (a) A person commits the offense of driving under the influence of drugs if the person operates or assumes actual physical control of the operation of any vehicle while under the influence of any drug which impairs such person's ability to operate the vehicle in a careful and prudent manner. The term "drug" as used in this section shall mean any controlled substance as defined and enumerated on schedules I through IV of chapter 329.

(b) A person committing the offense of driving under the influence of drugs shall be sentenced as follows without possibility of probation or suspension of sentence:

- (1) For a first offense, or any offense not preceded within a five-year period by a conviction under this section, by:
 - (A) A fourteen-hour minimum drug abuse rehabilitation program, including education and counseling, or other comparable programs deemed appropriate by the court; and
 - (B) Ninety-day prompt suspension of license with absolute prohibition from operating a motor vehicle during suspension of license, or the court may impose, in lieu of the ninety-day prompt suspension of license, a minimum thirty-day prompt suspension of license with absolute prohibition from operating a motor vehicle and, for the remainder of the ninety-day period, a restriction on the license that allows the person to drive for limited work-related purposes and to participate in drug treatment programs; and
 - (C) Any one or more of the following:
 - (i) Seventy-two hours of community service work; or
 - (ii) Not less than forty-eight hours of imprisonment; or
 - (iii) A fine of not less than \$150 but not more than \$1,000.
- (2) For an offense which occurs within five years of a prior conviction under this section:
 - (A) Prompt suspension of license for a period of one year with the absolute prohibition from operating a motor vehicle during suspension of license;
 - (B) Either one of the following:
 - (i) Not less than eighty hours of community service work; or
 - (ii) Not less than forty-eight consecutive hours of imprisonment; and
 - (C) A fine of not less than \$500 but not more than \$1,000.
- (3) For an offense which occurs within five years of two prior convictions under this section, by:
 - (A) A fine of not less than \$500 but not more than \$1,000;
 - (B) Revocation of license for a period not less than one year but not more than five years; and
 - (C) Not less than ten days but not more than one hundred eighty days imprisonment.
- (4) Notwithstanding any other law to the contrary, any conviction for driving under the influence of drugs shall be considered a prior conviction.

(c) Whenever a court sentences a person pursuant to section 291-7(b)(2) or (3), it shall also require that the offender be referred to a substance abuse counselor who has been certified pursuant to section 321-193 for an assessment of the offender's drug dependence and the need for treatment. The counselor shall submit a report with recommendations to the court. The court may require the offender to obtain appropriate treatment.

All costs for such assessment or treatment or both shall be borne by the offender.

(d) Notwithstanding any other law to the contrary, whenever a court revokes a person's driver's license pursuant to the provisions of this section, the examiner of drivers shall not grant to such person an application for a new driver's license for such period as specified by the court.

(e) As used in this section, the terms "driver", "driver's license", and "examiner of drivers" shall have the same meanings as provided in section 286-2; and the term "vehicle" shall have the same meaning as provided in section 291C-1.

SECTION 9.⁴ Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 10.⁴ This Act shall take effect upon its approval.

(Approved May 27, 1986.)

Notes

1. The words "or drugs" should be underscored.
2. Prior to amendment this phrase read "the police officer has informed the person".
3. The word "the" should be underscored.
4. So in original.

ACT 222

H.B. NO. 2273-86

A Bill for an Act Relating to Agricultural Parks.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER AGRICULTURAL PARKS

§ -1 **Legislative findings.** The legislature finds that important agricultural lands should be preserved for productive purposes; the contribution of diversified agriculture and aquaculture to export and local markets should be expanded, thereby increasing its importance in the State's economy; and continued use of the State's agricultural land resources should be ensured by providing lands to new farmers, displaced farmers, and other qualified farmers. In order to meet these goals, the objectives of the State shall include the provision of: lands of appropriate size and productive potential, with an adequate supply of water, to ensure economically viable farm operations; lands at reasonable cost with long-term tenure and security from urbanization pressure; and lands with common facilities and activities to encourage farm production and distribution economies.

§ -2 **Definitions.** For the purpose of this chapter:

"Agricultural activities" means the care and production of livestock, livestock products, poultry, or poultry products, or apiary, horticultural, or floricultural products, or the planting, cultivating, and harvesting of crops or trees, including tree farms.

"Agricultural park" means any agricultural or aquacultural complex so designated by the board, for which state land or state funds are used, in order to meet the goals and objectives stated in section -1. Agricultural buildings, farm residences, and employee dwellings necessary to the production and distribution of agricultural and aquacultural commodities may be considered part of the agricultural park.

"Aquacultural activities" means the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment; provided that such farm or ranch is on or directly adjacent to land.

"Board" means the board of agriculture.

"Department" means the department of agriculture.

§ -3 Authority to plan, develop, and manage agricultural parks. After June 30, 1986, the department of agriculture shall plan, develop, and manage agricultural parks in accordance with this chapter, on public lands set aside by the governor for use as agricultural parks pursuant to section 171-11.

§ -4 Park development. Except as herein provided, the department may develop, on behalf of the State or in partnership with a federal agency, a county, or a private party, agricultural parks which, at the option of the board, shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning, subdivision, construction, or building standards, provided that:

- (1) The agricultural park is situated within a state land use agricultural district;
- (2) The agricultural park does not contravene any safety standard or tariff approved by the public utilities commission for public utilities;
- (3) The department shall have first presented the plans and specifications for the agricultural park to the legislative body of the county where the agricultural park is proposed, which shall have the right to approve or disapprove the agricultural park within forty-five days after presentment. If no action is taken by the legislative body involved within forty-five days after presentment, the agricultural park shall be deemed approved;
- (4) The final plans and specifications for the agricultural park approved by the legislative body of the county involved shall constitute the zoning, building, construction, and subdivision standards for the agricultural park. No action shall be prosecuted or maintained against any county, or its officials or employees, on account of actions taken by them in reviewing, approving, or disapproving such plans and specifications. For purposes of sections 501-85 and 502-17, the chairperson of the board of agriculture or the responsible county official may certify maps and plans of lands connected with the agricultural park as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and the registrar;

- (5) The State shall assume the responsibility of maintaining all roads within the agricultural park, using the proceeds of the agricultural park special fund established under section -10.

§ -5 **Joint ventures.** Any agricultural park developed by the State in partnership with a federal agency, a county, or a private party shall be subject to a partnership agreement executed by the chairperson of the board of agriculture, which agreement shall provide, at a minimum:

- (1) A determination by the board that it is in the public interest to enter into the partnership agreement;
- (2) Long-term assurance that the land will be utilized for agricultural purposes;
- (3) State approval of the agricultural park development plans and specifications;
- (4) State review of selection and management of lessees;
- (5) Conditions to ensure a public benefit from any state funds expended for the project.

§ -6 **Disposition.** Any provision of this chapter to the contrary notwithstanding, the board may directly dispose of public lands set aside and designated for use as agricultural parks, by negotiation, drawing of lot, or public auction; provided that a reasonable portion of such disposition may be to farmers who qualify under the new farmer program pursuant to section 155-1(3). All such dispositions shall be by lease only and shall be subject to the requirements set forth in rules adopted by the board in conformance to section -9, and subject also to the following limitations:

- (1) The property shall be disposed of for agricultural purposes only;
- (2) The lessee shall derive the major portion of the lessee's total annual income from the lessee's activities on the premises;
- (3) The lessee shall comply with all federal and state laws regarding environmental quality control;
- (4) The board shall determine the specific uses for which the disposition is intended; parcel the land into minimum size economic units sufficient for the intended uses; make, or require the lessee to make, such improvements as are required to achieve the intended uses; set the upset price or lease rent based upon fair market value for the intended use of a lot; set the term of the lease, which shall be not less than fifteen years nor more than fifty-five years, including any extension granted for mortgage lending or guarantee purposes; and establish such other terms and conditions as it may deem necessary including, but not limited to, restrictions against alienation and provisions for withdrawal by the board;
- (5) No lease shall be made to any person who is in arrears in the payment of taxes, rents, or other obligations owing the State or any of its political subdivisions.

The violation of any provision contained herein shall be sufficient cause for the board, after due notice of breach or default as provided in rules adopted by the board in conformance to section -9, to cancel the lease and take possession of the land.

§ -7 **Applicants.** A person, including an agricultural cooperative organized under chapter 421 at least seventy-five per cent of the members of which qualify individually, shall be eligible to apply for an agricultural park lease if that person meets the qualifications for bona fide farmer as set forth

in section 171-68(a) and (c), or for new farmer as set forth in section 155-1(3), and as further provided in rules adopted by the board in conformance to section -9.

§ -8 **Preference right.** A displaced farmer who is otherwise qualified to take a farm lot, any farmer whose farm is located in a zoning district where such use is a nonconforming use, or any farmer who qualifies under the new farmer program pursuant to section 155-1(3), shall be given preference in obtaining an agricultural park lot.

§ -9 **Rules.** The board shall adopt rules in accordance with chapter 91 in order to effectuate the purposes of this chapter. Such rules shall provide, without limitation, for definitions; planning generally and for intensive agricultural uses; general eligibility requirements; qualifications of applicants; preference rights; disposition of leases; lease provisions; lease restrictions generally and for intensive agricultural uses; and notice of breach or default. Rules adopted by the board for the purpose of this chapter shall be consistent with sections 155-1, 155-10, 171-20, 171-33, 171-34, 171-35, 171-36, 171-37, 171-65, 171-66, 171-67, 171-68, and 171-69.

§ -10 **Agricultural park special fund.** (a) There is created in the state treasury a special fund to be designated as the agricultural park special fund. The proceeds in the fund shall be used for the following purposes:

- (1) Payment of agricultural park lease rents of privately owned lands under lease to the State pursuant to sections 171-112 and -3;
- (2) Establishing, operating, maintaining, and improving infrastructure improvements in agricultural parks designated by the department pursuant to section -3; and
- (3) Any other purposes deemed necessary by the department for the purpose of maintaining and operating those agricultural parks designated by the department pursuant to section -3.

For the purpose of paragraph (2), infrastructure improvements may include, but shall not be limited to: irrigation water system projects, wind power or hydro power and pumping systems, waste disposal systems, domestic water systems, roads, street lights, land and roads drainage, and bridges.

(b) Moneys appropriated for the purpose of the fund; any other provision of the law to the contrary notwithstanding, all moneys received or collected from an agricultural park project designated pursuant to section -3, including residential and agricultural lot lease rents; and all money collected or received by the department for the use and maintenance of a domestic and irrigation water system and other system enumerated in subsection (a) shall be deposited into the agricultural park special fund. All interest earned or accrued on moneys deposited in the fund shall become a part of the fund. Moneys in the fund shall be expended upon warrants drawn by the comptroller."

SECTION 2. Section 171-112, Hawaii Revised Statutes, is amended to read as follows:

"§171-112 **Acquisition.** The board of land and natural resources is [hereby] authorized to acquire by lease, exchange, direct purchase, or eminent domain private property for disposition for agricultural purposes, including but not limited to agricultural parks. After June 30, 1986, any lands acquired for the foregoing purposes may be designated and set aside under section 171-11 to the department of agriculture upon its request for use as an agricultural park."

SECTION 3. Section 171-117, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§171-117]]~~ **Public lands; agricultural park lands.** (a) Public lands may be used for agricultural parks under this part.

(b) Public lands designated or in use as agricultural parks on June 30, 1986, may be set aside under section 171-11 to the department of agriculture upon its request for use as agricultural parks. Notwithstanding any lease term to the contrary, after June 30, 1986, revenues from the rent, use, or maintenance of leased lots in agricultural parks set aside under this subsection shall be deposited into the agricultural park special fund established under section -10.”

SECTION 4. Section 171-111, Hawaii Revised Statutes, is repealed.

SECTION 5. Sections 171-113 to 171-116.5, Hawaii Revised Statutes, are repealed.

SECTION 6. Section 171-118, Hawaii Revised Statutes, is repealed.

SECTION 7. The balance of any funds remaining on June 30, 1986, in the agricultural park special fund created by section 171-116.5 shall be transferred to the agricultural park special fund created by section -10 of section 1 of this Act as of the effective date of this Act.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 9. This Act shall take effect on July 1, 1986.

(Approved May 27, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 223

H.B. NO. 2280-86

A Bill for an Act Relating to Employment Practices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 378-1, Hawaii Revised Statutes, is amended by deleting the definition of “Physical handicap”.

[“ “Physical handicap” means a substantial physical impairment where such handicap is verified by medical finding and appears reasonably certain to continue throughout the lifetime of the individual without substantial improvement.”]

SECTION 2. Section 378-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Handicapped status” means the state of having a physical or mental impairment which substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment.”

SECTION 3. Section 378-2, Hawaii Revised Statutes, is amended to read as follows:

"§378-2 Discriminatory practices made unlawful; offenses defined. It shall be an unlawful discriminatory practice:

- (1) For any employer to refuse to hire or employ or to bar or discharge from employment, or otherwise to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment because of race, sex, age, religion, color, ancestry, [physical handicap,] handicapped status, marital status, or arrest and court record;
- (2) For any employment agency to fail or refuse to refer for employment, or to classify or otherwise to discriminate against, any individual because of race, sex, age, religion, color, ancestry, [physical handicap,] handicapped status, marital status, or arrest and court record;
- (3) For any employer or employment agency to print, circulate, or cause to be printed or circulated any statement, advertisement, or publication or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination because of race, sex, age, religion, color, ancestry, [physical handicap,] handicapped status,¹ marital status, or arrest and court record;
- (4) For any labor organization to exclude or expel from its membership any individual or to discriminate in any way against any of its members, employer, or employees because of race, sex, age, religion, color, ancestry, [physical handicap,] handicapped status, marital status, or arrest and court record;
- (5) For any employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against any individual because the individual has opposed any practice forbidden by this part or has filed a complaint, testified, or assisted in any proceeding respecting the discriminatory practices prohibited under this part;
- (6) For any person whether an employer, employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the discriminatory practices forbidden by this part, or to attempt to do so;
- (7) For any employer or labor organization to refuse to enter into an apprenticeship agreement, as defined in section 372-2, because of the race, sex, age, religion, color, ancestry, [physical handicap,] handicapped status, marital status, or arrest and court record of an apprentice; provided that no apprentice shall be less than sixteen years of age;
- (8) For any employer to violate the provisions of section 121-43 relating to nonforfeiture for absence by members of the national guard; or
- (9) For any employer to refuse to hire or employ or to bar or discharge from employment, any individual because of assignment of income for the purpose of satisfying the individual's child support obligations as provided for under section 571-52."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

Note

1. Comma should be underscored.

ACT 224

H.B. NO. 2374-86

A Bill for an Act Relating to Motor Vehicle Licensing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-108, Hawaii Revised Statutes, is amended to read as follows:

"§286-108 Examination of applicants. The examiner of drivers shall examine every applicant for a driver's license, except as otherwise provided in this part. The examination shall be held in the county where the applicant resides within ten days from the date of the filing of the application. It shall include a test of the applicant's eyesight and such further physical examination as the examiner of drivers finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways; the applicant's ability to understand highway signs regulating, warning, and directing traffic; the applicant's knowledge of the rules of the road based on the traffic laws of the State and the traffic ordinances of the county where the applicant resides or where the applicant intends to operate a motor vehicle; and actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The examinations shall be appropriate to the operation of the category of motor vehicle for which the applicant seeks to be licensed and shall be conducted as required by the state director of transportation. The examiner of drivers may waive the actual demonstration of ability to operate a motor vehicle for any person who is at least eighteen years of age and who possesses a valid driver's license issued to the applicant in any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, [or] a province of the Dominion of Canada, or the Commonwealth of the Northern Mariana Islands for the operation of vehicles in categories 1[, 2, or] through 3[.] of section 286-102. As part of the examination required by this section the applicant for a driver's license shall produce and display a valid no-fault insurance identification card for the motor vehicle required by section 294-8.5, when the applicant demonstrates the ability to operate a motor vehicle to the satisfaction of the examiner of drivers. If no valid no-fault insurance identification card is displayed, the examiner of drivers shall not issue a driver's license to the applicant."

SECTION 2. Section 286-105, Hawaii Revised Statutes, is amended to read as follows:

"§286-105 What persons are exempt from license. The following persons are exempt from license:

- (1) Any person while driving or operating a motor vehicle in the service or employ of any branch or agency of the federal government; provided [he] that the person has received [from such branch or agency] a license or permit from the branch or agency to [so] operate and drive the motor vehicle; [and] provided [such] further that the branch or agency has been duly authorized by the federal government to issue the license or permit;

- (2) Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway; provided that no person under the age of thirteen years shall be permitted to drive or operate any such road machine, farm tractor, or implement of husbandry on a highway;
- (3) Any person who is at least eighteen years of age and who has in his possession a valid driver's license issued to him in any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, American Samoa, Guam, [or] a province of the Dominion of Canada, or the Commonwealth of the Northern Mariana Islands for that category of motor vehicle which he is operating, except, that such persons operating vehicles in categories 4 through 10 must meet the requirements of section 286-102(c) and be tested as required in section 286-108.5."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

ACT 225

H.B. NO. 2397-86

A Bill for an Act Relating to Limitations of Actions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 657, Part I, Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

"§657- Extension while criminal case is pending. If at any time when any cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the time during which the criminal action is pending shall not be deemed or taken as any part of the time limited for the commencement of the civil action.

As used in this section a criminal action is pending until its final adjudication in the trial court."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 226

H.B. NO. 2465-86

A Bill for an Act Relating to Restitution to Victims of Crime.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 706-605, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) Except as provided in section 706-606 and subject to the applicable provisions of this Code, the court may suspend the imposition of sentence on a person who has been convicted of a crime, may order the person to be committed in lieu of sentence in accordance with section 706-607, or may sentence the person as follows:

- (a) To be placed on probation as authorized by part II of this chapter; [or]
- (b) To pay a fine authorized by part III of this chapter; [or]
- (c) To be imprisoned for a term authorized by part IV of this chapter; [or]
- (d) To pay a fine and to probation or to pay a fine and to imprisonment, but not to probation and imprisonment, except as authorized by part II of this chapter; [or]
- (e) To make restitution or reparation to the victim or victims of the person’s crime in an amount the person can afford to pay, for loss or damage caused thereby in addition to paragraph (a), (b), (c), (d), or (f) [of this subsection (1)]; provided that if the court orders, in addition to restitution, payment of a fine in accordance with paragraphs (b) or (d), the payment of restitution shall have priority over the payment of the fine; or
- (f) To perform services for the community under the supervision of a governmental agency or benevolent or charitable organization or other community service group or under appropriate supervision, or to perform such services and to probation, as the court may direct, provided that the convicted person who performs such services shall not be deemed to be an employee for any purpose. The extent of services required shall be stated in the judgment. The court shall not sentence the convicted person only to perform such services unless, having regard to the nature and circumstances of the crime and to the history and character of the defendant, it is of the opinion that the performance of such services alone suffices for the protection of the public.”

SECTION 2. Section 706-642, Hawaii Revised Statutes, is amended to read as follows:

“§706-642 Time and method of payment. (1) When a defendant is sentenced to pay a fine, the court may grant permission for the payment to be made within a specified period of time or in specified installments. If no such permission is embodied in the sentence, the fine shall be payable forthwith by cash, check, or by a credit card approved by the court.

(2) When a defendant sentenced to pay a fine is also sentenced to probation, the court may make the payment of the fine a condition of probation.

(3) When a defendant sentenced to pay a fine is also ordered to make restitution or reparation to the victim or victims, or to the person or party who has incurred loss or damage because of the defendant’s crime, the payment of restitution or reparation shall have priority over the payment of the fine. No fine shall be collected until the restitution or reparation order has been satisfied.”

ACT 227

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

ACT 227

H.B. NO. 2536-86

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Industrial Enterprises.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that relatively low prices for oil and gas have contributed to an alarming lack of concern for the development of alternative energy resources and that development of such resources should occur before a recurrence of the energy crisis of the early 1970s. The legislature finds that part V, chapter 39A, Hawaii Revised Statutes, permits the State to financially assist industrial enterprises through the issuance of special purpose revenue bonds.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

SECTION 2. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue in one or more series special purpose revenue bonds in a total amount not to exceed \$12,000,000 for the purpose of assisting Hanalei Power Company, a Hawaiian Corporation, in the acquisition and construction of a hydroelectric power plant and related facilities on the Hanalei River in Kauai County. The entire output of such plant shall be made available for use by members of the general public by sale to Kauai Electric Company. The legislature finds and determines that the activity and facilities of Hanalei Power Company constitutes a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

ACT 228

H.B. NO. 2574-86

A Bill for an Act Making an Appropriation for Payment of Judgment Against the Department of Education, State of Hawaii, and in Favor of the United States Department of Education Through Its Secretary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to provide for the payment of the judgment entered against the department of education, State of Hawaii, by the United States Court of Appeals for the Ninth Circuit in Department of Education vs. Terrel Bell, C. A. Nos. 82-7697, and -7698. These consolidated appeals were brought by the department of education in an effort to reverse two decisions of the United States Education Appeals Board, which originally required Hawaii to refund \$398,495 and \$1,711,123, respectively, for having misspent federal funds provided pursuant to the Elementary and Secondary Education Act of 1965 (Title I) during the fiscal years 1973-1977. The federal administrative agency and the Ninth Circuit Court of Appeals, in affirming the earlier decisions, found and concluded that Hawaii had misspent these federal funds by using the funds to pay for materials, supplies, and teachers' salaries which should have been paid by state funds (supplanting), and by failing to provide students enrolled in Title I schools with the same level of services provided to children enrolled in non-Title I schools (comparability). The refunds demanded were reduced, however, to \$349,574.30 and \$1,480,207.

The attorney general is assessing the likelihood of securing a writ of certiorari from the United States Supreme Court to review the Ninth Circuit's decision and presently believes that a favorable ruling is not likely. Moreover, even if the United States Supreme Court were to grant certiorari, the likelihood of its diminishing the amount of the refund which Hawaii would have to pay may not be significant, particularly if, as is expected, the United States asserts that interest is owed and has accrued since the refunds were first demanded.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,829,781.30, or so much thereof as may be necessary for fiscal year 1986-1987, for the payment of the judgment entered against the department of education, State of Hawaii, by the United States Court of Appeals for the Ninth Circuit, in Department of Education, State of Hawaii, vs. Terrel Bell, C. A. Nos. 82-7697 and -7698.

SECTION 3. The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

ACT 229

H.B. NO. 2725-86

A Bill for an Act Relating to Child Abuse and Neglect.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 350-3, Hawaii Revised Statutes, is amended to read as follows:

"§350-3 Immunity from liability. (a) Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of such report. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(b) Any individual who assumes a duty or responsibility pursuant to section 350-2 or chapter 587 shall have immunity from civil liability for acts or omissions performed within the scope of the individual's duty or responsibility. Nothing in this section shall limit the liability of the department of social services and housing, any other state agency, or any private organization for the conduct of individuals provided immunity herein."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

ACT 230

H.B. NO. 2730-86

A Bill for an Act Relating to Environmental Quality Enforcement.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 342-8, Hawaii Revised Statutes, is amended to read as follows:

"**§342-8** [Cease and desist orders. (a) If the director determines that any person is:

(1) Violating this chapter; or

(2) Violating any rule or regulation promulgated under this chapter;

he may cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and may contain an order specifying a reasonable time during which the person shall be required to take such measures as may be necessary to correct the violation and to give periodic progress reports. Any such order shall become final unless no later than twenty days after the date of notice and order are served, the person or persons named therein request in writing a hearing before the director. Upon such request, the director shall require that the alleged violator or violators appear before him for a hearing at a time and place specified in the notice and answer the charges complained of.

In lieu of an order, the director may require that the alleged violator or violators appear before him for a hearing at a time and place specified in the notice and answer the charges complained of.

(b)] Enforcement. (a) If the director determines that any person is violating this chapter or violating any rule adopted under this chapter, the director:

(1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and may contain an order specifying a reasonable time during which that person shall be required to take such measures as may be necessary to correct the violation and to give periodic progress reports.

(2) May require that the alleged violator or violators appear before the director for a hearing at a time and place specified in the notice and answer the charges complained of.

(3) May impose penalties as provided in section 342-11 by sending a notice in writing, either by certified mail or by personal service, to the alleged violator or violators describing such violation.

(b) If the director determines that any person is continuing to violate this chapter or violate any rule adopted under this chapter after having been served notice of violation, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and shall contain an order requiring that person to submit a written schedule within thirty days specifying the measures to be taken and the time within which such measures shall be taken to bring that person into compliance with the provisions of this chapter or the provisions of any rule adopted under this chapter.
- (2) Shall accept or modify the submitted schedule within thirty days of receipt of such schedule. Any schedule not acted upon after thirty days of receipt by the director shall be deemed accepted by the director.
- (3) Shall issue to the alleged violator or violators a cease and desist order against the activities that violate this chapter or that violate any rule adopted under this chapter if that person does not submit a written schedule to the director within thirty days. This order shall remain in effect until such time that the director accepts the written schedule.
- (4) May impose penalties as provided in section 342-11 by sending a notice in writing, either by certified mail or by personal service, to the alleged violator or violators describing such violation.

(c) If the director determines that the person has violated the provisions of an accepted schedule, has violated an order issued under this section, or has continued to violate this chapter or violate any rule adopted under this chapter, the director shall impose penalties as provided in this section by sending a notice in writing, either by certified mail or by personal service, to that person, describing such nonadherence or violation with reasonable particularity.

(d) Any order issued under this chapter shall become final, unless no later than twenty days after the notice of order is served, the person or persons named therein request in writing a hearing before the director. Any penalty imposed under this chapter shall become due and payable twenty days after the notice of penalty is served unless the person or persons named therein request in writing a hearing before the director. Whenever a hearing is requested on any penalty imposed under this chapter, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. Upon request for a hearing, the director shall require that the alleged violator or violators appear before the director for a hearing at a time and place specified in the notice and answer the charges complained of.

(e) Any hearing conducted under this section shall be conducted as a contested case under section¹ 91. If after a hearing held pursuant to [subsection (a) of] this section, the director finds that a violation or violations have occurred, [he] the director shall affirm or modify [his] any penalties imposed or shall modify or affirm the order previously issued or issue an appropriate order or orders for the prevention, abatement, or control of the violation or discharges involved, or for the taking of such other corrective action as may be appropriate. If, after hearing on an order or penalty contained in a notice, the director finds that no violation has occurred or is occurring, [he] the director shall rescind the order[,] or penalty. Any order issued [as part of a notice or] after hearing may prescribe the date or dates by which the violation

or violations shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the violation or discharges.

[(c) Any violation of an order issued by the director may at the discretion of the director subject the violator or violators to the penalties specified in section 342-11 and the injunction remedies specified in section 342-12.]

(f) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable,

[The] the director [is authorized to impose the penalty specified in section 342-11(a) and section 342-11(c) and] may institute a civil action in the name of the State to recover the civil penalty which shall be a government realization.

In any proceeding to recover the civil penalty imposed, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing has run without such a request, the civil penalty was imposed, and that the penalty remains unpaid.

[(d) Nothing in this section shall prevent the director from making efforts to obtain voluntary compliance by warning, conference, or any other appropriate means.

(e)] (g) In connection with any hearing held pursuant to this section, the director shall have the power to subpoena the attendance of witnesses and the production of evidence on behalf of all parties."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

Note

1. So in original.

ACT 231

H.B. NO. 55

A Bill for an Act Relating to Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to exempt from increased tax liability those individuals for whose benefit individual housing accounts were established who marry individuals who have or have had interests in real property in an amount equal to ten per cent of the distribution from the individual housing account upon the termination of their housing account. This Act also makes this provision retroactive to the implementation of section 235-5.5, Hawaii Revised Statutes. In addition, certain nonsubstantive changes were made to eliminate redundancy and an erroneous reference to subsection (f) where subsection (g) was intended.

SECTION 2. Section 235-5.5, Hawaii Revised Statutes, is amended to read as follows:

"[[§235-5.5[]] Individual housing accounts. (a) There shall be allowed as a deduction from gross income the amount, not to exceed \$5,000, paid in cash during the taxable year by an individual taxpayer to an individual housing account established for the individual's benefit to provide funding for

the purchase of the individual's first principal residence. The interest paid or accrued within the taxable year on the account shall not be included in the individual's gross income. For purposes of this section, the term "first principal residence" means a residential property purchased with the payment or distribution from the individual housing account which shall be owned and occupied as the only home by an individual who did not have any interest in, individually, or whose spouse did not have any interest in, if the individual is married, a residential property prior thereto.

In the case of a married couple filing separate returns, the sum of the deductions allowable to each of them for the taxable year shall not exceed \$5,000, for amounts paid in cash, excluding interest paid or accrued thereon.

The amounts paid in cash allowable as a deduction under this section to an individual for all taxable years shall not exceed \$25,000, excluding interest paid or accrued. In the case of married individuals having separate individual housing accounts, the sum of such separate accounts and the deduction under this section shall not exceed \$25,000, excluding interest paid or accrued thereon.

(b) For purposes of this section, the term "individual housing account" means a trust created or organized in Hawaii for the exclusive benefit of an individual, or, in the case of a married individual, for the exclusive benefit of the individual and spouse jointly, but only if the written governing instrument creating the trust meets the following requirements:

- (1) Contributions shall not be accepted for the taxable year in excess of \$5,000 or in excess of \$25,000 for all taxable years, exclusive of interest paid or accrued;
- (2) The trustee is a bank, a savings and loan association, or a credit union, chartered or supervised under federal or state law, whose accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, or any agency of this State or any federal agency established for the purpose of insuring accounts in these financial institutions. The financial institution must actively make residential real estate mortgage loans in Hawaii;
- (3) The assets of the trust shall be invested only in fully insured savings or time deposits. Funds held in the trust may be commingled for purposes of investment, but individual records shall be maintained by the trustee for each individual housing account holder which show all transactions in detail;
- (4) The entire interest of an individual or married couple for whose benefit the trust is maintained shall be distributed to the individual or couple not later than one hundred twenty months after the date on which the first contribution is made to the trust; and
- (5) Except as provided in subsection [(f) in the case of a total disability or death,] (g), the trustee shall not distribute the funds in the account unless it (A) verifies that the money is to be used for the purchase of a first principal residence located in Hawaii, and provides that the instrument of payment is payable to the mortgagor, construction contractor, or other vendor of the property purchased; or (B) withholds an amount equal to ten per cent of the amount withdrawn from the account and remits this amount to the director within ten days after the date of the

withdrawal. The amount so withheld shall be applied to the liability of the taxpayer under subsections (c) and (e).

(c) Any contributions paid or distributed out of an individual housing account shall be included in gross income by the individual for whose benefit the account was established for the taxable year in which the payment or distribution is received, unless the amount is used exclusively in connection with the purchase of the first principal residence in Hawaii for the individual for whose benefit the account was established.

(d) The transfer of an individual's interest in an individual housing account to a spouse under a dissolution of marriage decree or under a written instrument incident to a dissolution of marriage shall not be considered a taxable transfer made by the individual, and the interest, at the time of the transfer, shall be treated as part of an individual housing account of the transferee, and not of the transferor. After the transfer, the account shall be treated, for purposes of this section, as maintained for the benefit of the transferee.

(e) If a distribution from an individual housing account to an individual for whose benefit the account was established is made and not used in connection with the purchase of the first principal residence in Hawaii for the individual, the tax liability of the individual under this chapter for the taxable year in which the distribution is received shall be increased by an amount equal to ten per cent of the amount of the distribution which is includable in the individual's gross income for the taxable year.

If, during any taxable year, the individual uses the account or any portion thereof as security for a loan, the portion so used shall be treated as if it had been distributed to that individual.

(f) If the individual for whose benefit the individual housing account was established purchases a residential property in Hawaii with the distribution from the individual housing account and thereafter sells in any manner or method or by use of any instrument conveying or transferring such residential property, the gross income of the individual under this chapter for the taxable year in which the residential property is sold, conveyed, or transferred, whichever is applicable, shall include an amount equal to the amount of the distribution from the individual housing account, and in addition, the tax liability of the individual shall be increased by an amount equal to ten per cent of the distribution from the individual housing account.

(g) No tax liability shall be imposed under this section if:

- (1) The payment or distribution is attributable to the individual dying or becoming totally disabled; or
- (2) Residential property subject to subsection (f) is sold due to the death or total disability of an individual or individual's spouse,

subject to the following:

An individual shall not be considered to be totally disabled unless proof is furnished of the total disability in the form and manner as the director may require.

Upon the death of an individual for whose benefit an individual housing account has been established, the funds in the account shall be payable to the estate of the individual; provided that if the account was held jointly by the decedent and a spouse of the decedent, the account shall terminate and be paid to the surviving spouse; or, if the surviving spouse so elects, such spouse may continue the account as an individual housing account. Upon the total disability of an individual for whose benefit an individual housing account has been established, the individual or the individ-

ual's authorized representative may elect to continue the account or terminate the account and be paid the assets; provided that if the account was held jointly by a totally disabled person and a spouse of such person, then the spouses or an authorized representative may elect to continue the account or terminate the account and be paid the assets.

(h) If the individual for whose benefit the individual housing account was established subsequently marries a person who has or has had any interest in residential property, the individual's housing account shall be terminated, the funds therein shall be distributed to the individual, and the amount of the funds shall be includable in the individual's gross income for the taxable year in which such marriage took place; provided that the tax liability defined under subsection (f) shall not be imposed.

[(h)] (i) The trustee of an individual housing account shall make reports regarding the account to the director and to the individual for whom the account is maintained with respect to contributions, distributions, and other matters as the director may require under rules. The reports shall be filed at a time and in a manner as may be required by rules adopted under chapter 91. A person who fails to file a required report shall be subject to a penalty of \$10 to be paid to the director for each instance of failure to file."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall apply retroactively to taxable years beginning after December 31, 1981.

(Approved May 28, 1986.)

ACT 232

H.B. NO. 420

A Bill for an Act Relating to the Expiration of Driver's License.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-107, Hawaii Revised Statutes, is amended as follows:

1. Subsection (b) is amended to read:

"(b) Except as otherwise provided in subsection (c), an applicant for a renewal of a driver's license shall appear in person before the examiner of drivers and the examiner of drivers shall administer such physical examinations and tests of his knowledge of the rules of the road as the state director of transportation deems necessary to determine the applicant's fitness to continue to operate a motor vehicle[.]; provided that an applicant for renewal who is sixty-five years of age or older need not be tested as to the applicant's knowledge of the rules of the road more than once every four years."

2. Subsection (e) is amended to read:

"(e) No driver's license shall be renewed by the examiner of drivers unless the examiner of drivers is satisfied of the applicant's fitness to continue to operate a motor vehicle and has demonstrated his knowledge of the rules of the road through examinations as may be required by rules adopted by the state director of transportation, and unless the fee required by subsection (d) is tendered together with the application for renewal[.]; provided that an applicant for renewal who is sixty-five years of age or older need not

demonstrate knowledge of the rules of the road more than once every four years."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1986.)

ACT 233

H.B. NO. 1663-86

A Bill for an Act Relating to a University of Hawaii Child Care Center Pilot Project.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§304- Child care center revolving fund. There is established a child care center revolving fund for the operation, construction, and renovation of child care centers established by the University of Hawaii. Fees charged for child care at child care centers, proceeds from donations to the university for child care centers, and proceeds from loans or other instruments of indebtedness for the construction or renovation of child care centers, shall be deposited into the revolving fund. Expenditures from the revolving fund shall be made for the operation of child care centers and payment of principal and interest on obligations incurred for the construction or renovation of child care centers."

SECTION 2. The University of Hawaii may establish a child care pilot project through which one or more child care centers for each campus of the university system may be established. The University of Hawaii may operate each child care center with appointed personnel, who are not subject to chapters 76 and 77, or by contract with private persons or agencies.

SECTION 3. The provision of child care services shall be self-supporting, with proceeds from the revolving fund being sufficient to pay for the expenses of operation, including payment of principal and interest on any obligations incurred.

SECTION 4. The University, at least twenty days prior to the convening of the 1988 Regular Session, shall provide the legislature with an evaluation report on the pilot project specifically addressing:

- (1) The financial viability of each child care center;
- (2) The number of students, faculty and staff served at each center;
- (3) The extent of the need for child care services at each campus; and
- (4) The degree to which the University is able to address the need for child care services at each campus.

SECTION 5. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved May 28, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 234

H.B. NO. 1666-86

A Bill for an Act Relating to a Teacher Incentive Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§304- Teacher incentive program; tuition waiver. (a) In addition to any other tuition waivers provided under this chapter, there is established a teacher incentive program at the University of Hawaii to provide tuition waivers to students who agree to pursue an academic curriculum which would qualify them to teach in Hawaii's public schools in exchange for waiver of the tuition.

(b) The board of regents shall adopt rules as necessary pursuant to chapter 91, to effectuate the purpose of this section and which address the following concerns:

- (1) Minimum qualifications of applicants;
- (2) Application procedures;
- (3) Criteria for establishing an approved curriculum which meets the intent of this section;
- (4) The number of waivers available each year;
- (5) Criteria for fulfilling an applicant's obligation to teach;
- (6) Payback criteria and procedures for applicants who do not fulfill their obligation to teach; provided that such applicants shall pay not less than the tuition the applicants received in waivers;
- (7) Exceptions to payback provisions, if necessary;
- (8) The limitation, suspension, or revocation of waivers, if necessary; and
- (9) Sanctions against violators of this section or any rule adopted pursuant to this section.

(c) The tuition waiver granted under this section is not cumulative and may not be granted to an applicant who is the recipient of another waiver provided by the State."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon approval, and shall be repealed as of June 30, 1992; provided that any tuition paybacks which have not been completed at the time this Act is repealed shall continue to be repaid after the repeal date.

(Approved May 28, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 235

H.B. NO. 1680-86

A Bill for an Act Relating to Child Support.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 584-15, Hawaii Revised Statutes, is amended to read as follows:

"[] §584-15[] Judgment or order. (a) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(b) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued under section 584-23.

(c) The judgment or order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. Upon neglect or refusal to give such security, or upon default of the father or his surety in compliance with the terms of the judgment, the court may order the forfeiture of any such security and the application of the proceeds thereof toward the payment of any sums due under the terms of the judgment and may also sequester the father's personal estate, and the rents and profits of his real estate, and may appoint a receiver thereof, and may cause the father's personal estate, including any salaries, wages, commissions, or other moneys owed to him and the rents and profits of his real estate, to be applied toward the meeting of the terms of the judgment, to the extent that the court, from time to time, deems just and reasonable. The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(d) Support judgment or orders ordinarily shall be for periodic payments which may vary in amount. In the best interest of the child, a lump sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support. The court may limit the father's liability for past support of the child to the proportion of the expenses already incurred that the court deems just.

(e) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts, including:

- (1) The needs of the child;
- (2) The standard of living and circumstances of the parents;
- (3) The relative financial means of the parents;
- (4) The earning ability of the parents;
- (5) The need and capacity of the child for education, including higher education;
- (6) The age of the child;
- (7) The financial resources and the earning ability of the child;
- (8) The responsibility of the parents for the support of others; and
- (9) The value of services contributed by the custodial parent.

(f) Whenever a parent of a child is a minor, unmarried, and not able to provide full support, the court may order one or both parents of the minor to support the child until the minor reaches the age of majority, is otherwise emancipated, or is financially able to fully support the child, whichever occurs first. For this purpose:

- (1) The judgment or order for support shall be made against the parent or parents of the minor to the extent that the minor is unable to support the child;
- (2) The resources, standard of living, and earning ability of the parent or parents of the minor shall be considered under subsection (d) in determining the amount of support; and
- (3) The parent or parents of the minor shall be an obligor under this chapter and chapter 571 and any action against the obligor to collect support may be pursued against the parent or parents of the minor."

SECTION 2. Section 584-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) If it appears to the satisfaction of the court that [a man] an alleged, known or presumed [to be the father] parent of the child is a minor, the court shall cause notice of the pendency of the proceedings and copies of the pleadings on file to be served upon the legal parents or guardian of the minor [and] as parties. The court may appoint a guardian ad litem to represent the minor in the proceedings. If the legal parents or guardian of any such minor cannot be found, the notice may be served in such manner as the court may direct pursuant to sections 634-21 to 634-24. The court may align the parties."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1986.)

ACT 236

H.B. NO. 1687-86

A Bill for an Act Making an Appropriation for the Rental Assistance Revolving Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000, or so much thereof as may be necessary for fiscal year 1986-1987, to be paid into the rental assistance revolving fund created in section 356-303, Hawaii Revised Statutes. The sum appropriated shall be expended by the Hawaii housing authority for the purposes of the fund.

SECTION 2. This Act shall take effect on July 1, 1986.

(Approved May 28, 1986.)

ACT 237

H.B. NO. 1951-86

A Bill for an Act Relating to Mental Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 334-101, Hawaii Revised Statutes, is amended to read as follows:

"[]§334-101[]] **Establishment.** It is the intent of the legislature to establish a statewide system of residential treatment programs which provide a range of available services which will be alternatives to institutional care and are based on principles of residential, community-based treatment.

It is further the intent of the legislature that community residential mental health programs in the State of Hawaii be developed in accordance with the guidelines and principles set forth in this part. To this end, the department may implement the community residential treatment system described in this part either with available allocations or applying for funds from the legislature. Any private, nonprofit, or public organization, or both, within the State is eligible to submit an application for [funding] operation under this part.

It is further the intent of the legislature to provide guidelines for such a system to the applicants, while allowing each applicant the flexibility to design a system specific to the nature of the community and the needs of the clients.

It is further the intent of the legislature that the director, in [allocating funds available for] authorizing programs which serve as alternatives to institutionalization, follow the guidelines and principles developed herein."

SECTION 2. Section 334-103, Hawaii Revised Statutes, is amended to read as follows:

"§334-103 **Program elements.** The following shall be the program elements of the system. These shall be designed to provide, at every level, alternatives to institutional settings. Applicants [in] applying [for funds for the] to operate program elements shall show how each of these elements works with the current programs in the community the facility will serve. Applicants may apply for [funds for] operation under the following program elements:

- (1) A short-term crisis residential alternative to hospitalization for individuals experiencing an acute episode or situational crisis. The program shall be available for admissions twenty-four hours a day, seven days a week. The primary focus of this element shall be on reduction of the crisis, stabilization, diagnostic evaluation, and assessment of the person's existing support system, including recommendations for referrals upon discharge. This service in the program shall be designed for persons who would otherwise be referred to an acute inpatient psychiatric unit.
- (2) A long-term residential treatment program for clients who would otherwise be living marginally in the community with little or no service support, and who would return many times to the hospital for treatment. It also will serve those who are referred to, and maintained in, state hospitals or nursing homes because they require long-term, intensive support. This service shall be designed to provide a rehabilitation program for the so-called "chronic" patient who needs long-term support in order to develop independent living skills. This program goes beyond maintenance to provide an active rehabilitation focus for these individuals.
- (3) A transitional residential program designed for persons who are able to take part in programs in the general community, but who,

without the support of counseling, as well as the therapeutic community, would be at risk of returning to the hospital. These programs may employ a variety of staffing patterns and are for persons who are expected to move toward a more independent living setting. The clients shall be expected to play a major role in the functioning of the household, and shall be encouraged to accept increasing levels of responsibility, both in the residential community, and in the community as a whole. Residents are required to be involved in daytime activities outside of the facility which are relevant to their personal goals and conducive to their achieving more self-sufficiency.

- (4) A semisupervised, independent, but structured living arrangement for persons who do not need the intensive support of the [other] system elements[,] of paragraph (1), (2), or (3), but[,] who, without some support and structure, are at risk of requiring hospitalization. The small cooperative housing units shall function as independent households with direct linkages to staff support in case of emergencies, as well as for regular assessment and evaluation meetings. Individuals may use satellite housing as a transition to independent living, or may remain in this setting indefinitely in order to avoid the need for more intensive settings. This element is for persons who only need minimum professional or paraprofessional support in order to live in the community. These units should be as normative as the general living arrangements in the communities in which they are developed.
- (5) An unsupervised, independent living arrangement for persons who do not need professional or paraprofessional support or supervision or assistance in daily living activities, but for whom the daily presence of peers is desirable for a transition period immediately prior to full release into the community. The living arrangement shall be in a private residence shared by three or more unrelated persons served by any mental health or substance abuse treatment program, including the system elements of paragraph (1), (2), (3), or (4) within a prior twelve-month period. The persons shall be responsible for the payment of all rent, food utilities, and other necessities, commodities, or services used or consumed, whether payment is made from the persons' own resources or public assistance grants. No service or support shall be provided other than periodic monitoring to determine if the persons are progressing satisfactorily toward full release into the community; except that section 334-102(3)(C) shall apply. The department of health may oversee the operational, fiscal, and resident selection policies for each living arrangement. This element shall be designed and intended to allow persons to be fully released into the community."

SECTION 3. Section 334-106, Hawaii Revised Statutes, is amended to read as follows:

"[]§334-106[] License required. Facilities [funded] operated pursuant to this part shall be licensed under existing licensing categories, including provisional licenses[,], or accredited pursuant to section 321-193(10). The director shall review the appropriateness of these licensing and accreditation categories. If the director determines that new licensing or accreditation

categories are necessary, [he] the director shall issue a report and recommendation to the legislature."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect January 1, 1987.

(Approved May 28, 1986.)

ACT 238

H.B. NO. 2060-86

A Bill for an Act Relating to Seat Belts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-11.6, Hawaii Revised Statutes, is amended by amending subsections (a) and (c) as follows:

1. Subsection (a) is amended to read as follows:

"(a) Except as otherwise provided by law, no person:

- (1) Shall operate a motor vehicle upon any public highway unless the person is restrained by a seat belt assembly and any passengers in the front seat of the motor vehicle are restrained by a seat belt assembly if between the ages of four and fifteen or are restrained pursuant to section 291-11.5 if under the age of four;
- (2) If fifteen years of age or more shall be a passenger in the front seat of a motor vehicle being operated upon any public highway unless such person is restrained by a seat belt assembly.

As used in this section "seat belt assembly" means the seat belt assembly required to be in the motor vehicle under any federal motor vehicle safety standard issued pursuant to Public Law 89-563, the federal National Traffic and Motor Vehicle Safety Act of 1966, as amended[.], unless original replacement seat belt assemblies are not readily available. If replacement assemblies are not readily available, seat belts of federally approved materials with similar protective characteristics may be used. Such replacement seat belt assemblies shall be permanently marked by the belt manufacturer indicating compliance with all applicable federal standards."

2. Subsection (c) is amended to read as follows:

"(c) No person shall be guilty of violating this section if:

- (1) The person is in a motor vehicle which is not required to be equipped with a seat belt assembly under any federal motor vehicle safety standard unless the vehicle is in fact equipped with a seat belt assembly;
- (2) The person not restrained by a seat belt assembly is in a vehicle in which the number of persons exceeds the number of seat belt assemblies available in the vehicle or the number of seat belt assemblies originally installed in the vehicle, whichever is greater; provided that all available seat belt assemblies are being used to restrain passengers;
- (3) The person not restrained by a seat belt assembly has a [physical-ly disabling] condition which prevents appropriate restraint by the seat belt assembly; provided such condition is duly certified by a physician who shall state the nature of the [handicap,] condition, as well as the reason such restraint is inappropriate; or

- (4) The person not restrained by a seat belt assembly is operating a taxicab or other motor vehicle utilized in performing a bona fide metered taxicab service which is regulated under chapter 269 or by county ordinance and is carrying passengers in the vehicle in the course of performing taxicab services.
- [(4)] (5) Otherwise exempted by rules adopted by the department of transportation pursuant to chapter 91."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 28, 1986.)

ACT 239

H.B. NO. 2192-86

A Bill for an Act Relating to Motorcycles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-26, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) As part of the inspection required by this section the owner of the vehicle to be inspected shall produce and display the no-fault insurance identification card for the inspected motor vehicle required by section 294-8.5[.] or the proof of insurance card required by section 294-12.6. If no card is displayed then the sticker authorized by the state [[]director of transportation[]] shall not be affixed to the vehicle and the certificate of inspection shall not be issued."

SECTION 2. Section 294-12.6, Hawaii Revised Statutes, is amended to read as follows:

"[[]§294-12.6[]] Motorcycles and motor scooters excluded from chapter. (a) All motorcycles and motor scooters required to be registered under chapter 286 shall be exempt from chapter 294; provided that:

- (1) No person shall drive a motorcycle or motor scooter upon any public street, road, or highway of this State at any time unless such vehicle is insured at all times under a liability insurance policy as provided in this section; [and]
- (2) In the case of accidental harm arising out of a motorcycle or motor scooter accident to any passenger of [said] such motorcycle or motor scooter, or any pedestrian, motorcycles and motor scooters [will] shall not be exempt from sections 294-4, 294-6, and 294-10; [and]
- (3) In the case of accidental harm arising out of an accident involving a motorcycle or motor scooter and a motor vehicle, the owner or operator of a motorcycle or motor scooter [will] shall not be exempt from section 294-6.

(b) The insurance policy required under this section shall provide insurance to pay on behalf of the owner or any operator of the insured vehicle sums which the owner or operator may legally be obligated to pay for injury, death, or damage to the property of others, except property owned by,

being transported by, or in the charge of the insured which arise out of the ownership, operation, maintenance, or use of the vehicle:

- (1) Liability coverage of not less than \$25,000 for all damages arising out of accidental harm sustained by any one person as a result of any one accident applicable to each person sustaining accidental harm; and
- (2) Liability coverage of not less than \$10,000 for all damages arising out of injury to or destruction of property including motor vehicles and including the loss of use thereof, but not including property owned by, being transported by, or in the charge of the insured, as a result of any one accident.
- (c) At the option of the owner, each insurer shall:
 - (1) Offer medical payment coverage up to \$15,000 to pay all reasonable expenses incurred within one year from the date of accident for necessary medical, surgical, and dental services, and necessary ambulance, hospital, professional nursing, and funeral services; and
 - (2) Offer an income disability plan.

(d) Every insurer shall issue to its insureds for each motorcycle or motor scooter for which a liability policy under this section is written, a proof of insurance card showing the name, make, year, and factory or serial number of the motorcycle or motor scooter, policy number, names of the insured and the insurer, and the effective dates of coverage including the expiration date; provided that insurers of five or more motorcycles or motor scooters which are under common registered ownership and used in the regular course of business shall not be required to indicate the name, make, year, and the factory or serial number of each motorcycle or motor scooter. The proof of insurance card shall be carried on the person operating the insured motorcycle or motor scooter or in the insured motorcycle or motor scooter at all times and shall be exhibited to a law enforcement officer upon demand.

[(d)] (e) Any person who violates this section shall be subject to a citation by the police and shall be subject to a non-suspendable fine of not less than \$100, or more than \$1,000, or thirty days imprisonment, or a one-year driver's license suspension or any combination thereof, for each violation."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1986.)

ACT 240

H.B. NO. 2193-86

A Bill for an Act Relating to Securities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 485-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Procedure for registration by notification. Securities entitled to registration by notification shall be registered by the filing by the issuer or by any registered dealer interested in the sale thereof, in the office of the

commissioner, of a statement with respect to the securities containing the following:

- (1) Name of issuer, location and, if incorporated, place of incorporation;
- (2) A brief description of the securities, including the amount of the issue;
- (3) Amount of securities to be offered in the State;
- (4) A statement of the amount of the issuer's income, expenses, and fixed charges during the last three years, certified to by a public accountant;
- (5) A balance sheet showing the amount and general character of its assets and liabilities as of the last fiscal year immediately preceding, certified to by a public accountant;
- (6) A brief statement of the facts which show that the securities fall within one of the classes in this section defined;
- (7) The price at which the securities are to be offered for sale to the public;
- (8) A statement that the issuer has complied with all the laws of the United States relating to the sale of securities;
- (9) Such further information as the commissioner may require.

All of the statements, exhibits, and documents of every kind required by the commissioner under this section, except properly certified public documents, shall be verified by the oath of the applicant or of the issuer in such manner and form as may be required by the commissioner.

In the case of securities falling within the class defined by [paragraphs (1) or (2), of subsection (a),] subsection (a)(1) or (2), a copy of the circular to be used for the public offering shall be filed in the office of the commissioner with the statement or within two days thereafter or within such further time as the commissioner allows.

In the case of securities falling within the classes defined by [paragraphs (3),] subsection (a)(3), (4), (5), (6), and (7), the circular to be used for the public offering shall be filed with the statement.

The filing of such statement in the office of the commissioner and the payment of the fee hereinafter provided shall constitute the registration of the security. Upon such registration, the securities may be sold in the State by any registered dealer giving notice in the manner provided in section [485-14(i)] 485-14(o) subject to the further order of the commissioner as hereinafter provided.

At the time of filing the statement, as prescribed in this section, the applicant shall pay to the commissioner a fee of one-twentieth of one per cent of the aggregate offering price of the securities to be offered in the State for which the applicant is seeking registration, but in no case shall the fee be more than [\$100.] \$250."

SECTION 2. Section 485-10, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) At the time of filing the application for registration as prescribed in this section, the applicant shall pay to the commissioner, a fee of one-tenth of one per cent of the aggregate offering price of the securities to be sold in the State for which the applicant is seeking registration, but in no case shall the fee be less than [\$20] \$50 nor more than [\$200.] \$500."

SECTION 3. Section 485-10, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Registration under this section is effective for a period of one year and may be renewed for additional periods of one year by filing, by a date not later than fifteen days prior to expiration of registration, a prospectus meeting the requirements of [paragraph (3) or (4) of subsection (b) of this section,] subsection (b)(3) or (4), and containing information as of a date not more than ninety days prior to the date of filing, together with the payment of a renewal fee of [\$20.] \$50.”

SECTION 4. Section 485-14, Hawaii Revised Statutes, is amended to read as follows:

“§485-14 Registration of dealers, investment advisers, salesmen and investment adviser representatives. (a) It is unlawful for any person to transact business in this State as a dealer, investment adviser, salesman, or investment adviser representative unless registered under this chapter.

(b) Eligibility for registration as a dealer. To be eligible for registration as a dealer an applicant [must be of good repute and] shall have had (or if the applicant is a partnership or corporation have at least one partner, officer, or employee who has) at least one year of experience as a full-time security salesman or experience as a security salesman on a part-time basis found by the commissioner of securities to be substantially equivalent thereto, provided that the foregoing experience requirement shall not apply to issuers of securities applying for registration as dealers for the sole purpose of issuing and selling securities issued by them.

(c) Application for registration as a dealer. An application for registration as a dealer in writing shall be filed in the office of the commissioner in such form as the commissioner may prescribe, duly verified by oath, and shall state the principal office of the applicant wherever situated, and the location of the principal office and branch offices in the State, if any, the name and style of doing business, the names, residence, and business of principals, copartners, officers, and directors, specifying as to each his capacity and title, the general plan and character of business, the length of time the dealer has been engaged in business and information as to the time, place, and character of experience as a securities salesman. The commissioner may also require such additional information as to the applicant's previous history, record, and association [as he deems necessary to establish the good repute in business of the applicant.] including the following:

- (1) Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony;
- (2) The applicant's financial condition and history;
- (3) Whether the dealer, or any person employed by or associated in business with the dealer, is subject to any disqualification which would be a basis for denial, suspension, or revocation of registration of the dealer under section 485-15; and
- (4) Any other information as the commissioner deems necessary to establish the qualifications of the applicant.

There shall be filed with such application an irrevocable written consent to the service of process upon the commissioner in actions against the dealer in manner and form provided in section 485-12.

(d) Eligibility for registration as an investment adviser. To be eligible for registration under this chapter, an investment adviser [shall be of good repute,] shall have complied with provisions mandatory of this section, and shall take and pass an oral or written examination, or both, prescribed by the

commissioner, to test the applicant's knowledge of the securities business; provided that the commissioner may by rule [or regulation] set forth exemptions to the examination requirement. Every person required to take such an examination at or before the time of the examination, shall pay to the commissioner a fee of [\$100.] \$250.

(e) Registration of investment advisers. An application for registration, duly verified by oath by the applicant, shall be filed in the office of the commissioner accompanied by (1) an irrevocable written consent to the service of process upon the commissioner in actions against the investment adviser in manner and form provided in section 485-12, (2) the applicant's photograph, and (3) a form of the disclosure statement described in section 485-25(c)(4). Information on the registration statement shall include:

- (1) The name and form of organization under which the investment adviser engages or intends to engage in business; the name of the state or other sovereign power under which the investment adviser is organized; the location of the investment adviser's principal business office and branch offices, if any; the names and addresses of the investment adviser's partners, officers, directors, and persons performing similar functions or, if the investment adviser is an individual, of such individual; and the number of the investment adviser's employees;
- (2) The education, the business affiliations for the past five years, and the present business affiliations of the investment adviser and of the investment adviser's partners, officers, directors, and persons performing similar functions and of any controlling person thereof;
- (3) The nature of the business of the investment adviser, including the manner of giving advice and rendering analyses or reports;
- (4) A balance sheet certified by an independent public accountant and other certified financial statements if the investment [advisor] adviser has custody of or discretionary authority over client money, securities or other assets, or an unaudited, verified balance sheet and financial statements if the investment [advisor] adviser has no custody of or discretionary authority over client money, securities or other assets;
- (5) The nature and scope of the authority of the investment adviser with respect to clients' funds and accounts;
- (6) The basis or bases upon which the investment adviser is compensated;
- (7) Whether the investment adviser, or any person employed by or associated in business with the investment adviser, is subject to any disqualification which would be a basis for denial, suspension, or revocation of registration of the investment adviser under section 485-15;
- (8) A statement as to whether the principal business of the investment adviser consists or is to consist of acting as investment adviser; and
- (9) [Such other] Other information as to the applicant's previous history, record, and association as the commissioner deems necessary [to establish the good repute of the applicant.] including:
 - (A) Disclosure of any injunction or administrative order or conviction of a misdemeanor involving a security or any

aspect of the securities business and any conviction of a felony;

(B) The applicant's financial history; and

(C) Any additional information as the commissioner deems necessary to establish the applicant's qualifications.

The commissioner may use a uniform registration form adopted by the North American Securities Administrators Association, the Securities and Exchange Commission, or any national securities exchange or national securities association registered under the Securities Exchange Act of 1934; provided such form encompasses the information required under this section.

If an applicant is currently registered by the United States Securities and Exchange Commission or any national securities exchange or national securities association registered under the Securities Exchange Act of 1934, the commissioner may accept a certified copy of the registration application the applicant submitted to obtain such registration in lieu of the application required by this section.

(f) Approval, bond. If the commissioner finds that the applicant for registration as a dealer is eligible for such registration, then he shall register the applicant as a dealer upon payment of the fee hereinafter provided and upon such dealer's filing a bond in the sum of \$5,000 running to the State conditioned upon the faithful compliance with this chapter by the dealer and by all salesmen registered by him while acting for him. The bond shall be executed as surety by a surety company authorized to do business in the State; provided that no bond is required of or from any such applicant if the applicant at the time of making his application is a member of any recognized stock or bond exchange which has been in existence for a period of five years prior to April 29, 1931; provided further that no bond is required of a dealer if the aggregate par value of the securities to be sold is less than \$5,000 or in the case of no par value stock, if the price at which the stock is to be offered to the public is less than \$5,000 if the person selling or offering the securities for sale to the public notifies the commissioner in writing of his intention to make the sale and after the sale files with the commissioner a statement of the kind and amount of stock sold and the price received therefor, but where the aggregate par value of the securities or the price at which the stock is to be offered to the public is less than \$5,000 no more than one such sale or offering shall be allowed within a period of one year; provided further that in lieu of the above bond any dealer may deposit and keep deposited with the commissioner cash in the amount of \$5,000 or securities to be approved by the commissioner having a market value at all times of not less than \$5,000 which cash or securities shall be held in trust for the fulfilling of the same terms and conditions as in the case of a bond required by this section, which cash or securities may be withdrawn at any time subject to the deposit in lieu thereof of cash or other securities of equal value, or upon the filing of a bond as provided in this section, and which cash or securities will be so held in trust for a period of two years beyond the revocation or termination of the registration of the dealer depositing the same.

(g) Investment adviser's approval; bond, insurance required. If the commissioner finds that the applicant for registration as an investment adviser is eligible for such registration, the commissioner shall register the investment adviser upon a payment of a fee hereinafter provided and upon such investment adviser filing a bond in the sum of \$50,000 with the State as the obligee. The bond requirement shall be \$5,000 if the adviser does not have custody of or discretionary authority over client money, securities or other

assets. The bond shall be conditioned upon the faithful compliance with this chapter by the investment adviser. The bond shall be executed as a surety by a surety company authorized to do business in the State, provided that in lieu of the above bond any investment adviser may deposit and keep deposited with the commissioner cash in the applicable amount of \$50,000 or \$5,000 or securities to be approved by the commissioner having a market value at all times of not less than \$50,000 or \$5,000 which cash or securities shall be held in trust for the fulfilling of the same terms and conditions as in the case of a bond required by this section, which cash or securities may be withdrawn at any time subject to the deposit in lieu thereof of cash or other securities of equal value, or upon the filing of a bond as provided in this section, and which cash or securities will be so held in trust for a period of two years beyond the revocation or termination of the registration of the investment adviser depositing the same. In addition, the investment adviser shall file with the commissioner a certificate of insurance which indicates that such investment adviser's business is insured for errors and omissions for at least \$100,000 per occurrence with a \$200,000 aggregate for those with less than two years experience and a \$500,000 aggregate for those with two or more years of experience for the protection of the investment adviser's client.

(h) Eligibility for registration as a salesman. To be eligible for registration under this chapter a salesman [shall be of good repute,] shall have complied with the provisions mandatory of this section, shall be designated as a salesman by a registered dealer, and shall take and pass an oral or written examination, or both, prescribed by the commissioner, to test his knowledge of the securities business. Every person required to take such an examination shall, at or before the time he takes the same, pay a fee as prescribed by the commissioner. No person shall be designated as a salesman by, or shall act as a salesman for, more than one registered dealer.

(i) Registration of salesmen. An information statement, containing such information as the commissioner shall prescribe, duly verified by oath by the applicant, shall be filed in the office of the commissioner, together with an appointment of the applicant as a salesman by a registered dealer. The commissioner may require the following:

- (1) Disclosure of any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony;
- (2) The applicant's financial history and condition;
- (3) Disclosure as to whether the salesman or any person associated in business with the salesman is subject to any disqualification which would be a basis for denial, suspension, or revocation of registration of the salesman under section 485-15; and
- (4) Any additional information as the commissioner deems necessary to establish the applicant's qualifications.

If the commissioner finds a salesman designated by any registered dealer to be eligible for registration as a salesman, he shall register the person as a salesman upon the payment of the fee hereinafter provided.

(j) Eligibility for registration as an investment adviser representative. To be eligible for registration under this chapter an investment adviser representative [shall be of good repute,] shall have complied with the provisions mandatory of this section, shall be designated as a representative by a registered investment adviser and shall take and pass an oral or written examination, or both, prescribed by the commissioner, to test his knowledge of the investment advisory and securities business; provided that the commis-

sioner may by rule [or regulation] set forth exemptions to the examination requirement. Every person required to take such an examination shall, at or before the time he takes the same, pay a fee as prescribed by the commissioner. No person shall be designated as an investment adviser representative by, or shall act as an investment adviser representative for, more than one registered investment adviser.

(k) Registration of investment adviser representative. An information statement, containing such information as the commissioner shall prescribe, duly verified by oath by the applicant, shall be filed in the office of the commissioner, together with an appointment of the applicant as an investment adviser representative by a registered investment adviser. The commissioner may require the following:

- (1) Disclosure of any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony;
- (2) The applicant's financial history and condition;
- (3) Disclosure as to whether the investment adviser representative, or any person associated in business with the investment adviser representative, is subject to any disqualification which would be a basis for denial, suspension, or revocation of registration of the investment adviser representative under section 485-15; and
- (4) Any additional information as the commissioner deems necessary to establish the applicant's qualifications.

If the commissioner finds an investment adviser representative designated by any investment adviser to be eligible for registration as an investment adviser representative, he shall register the person as an investment adviser representative upon the payment of a fee hereinafter provided.

(l) Recording; duration; renewal; fee. The name and addresses of all persons found eligible for registration as dealers, investment advisers, salesmen, or investment adviser representatives and all orders with respect thereto shall be recorded in a register of dealers, investment advisers, salesmen, and investment adviser representatives kept in the office of the commissioner which shall be open to public inspection. Except as hereinafter provided, every registration under this section shall expire on December 31 in each odd-numbered year. Applications for renewals shall be made not less than thirty nor more than sixty days before the end of the odd-numbered year. Any applicant for renewal of a dealer, investment adviser, salesman, or investment adviser representative registration who does not submit his application within the time prescribed by this section shall pay a penalty of one hundred per cent of the applicable renewal fee. Any applicant for renewal of a dealer, investment adviser registration who submits his application after December 31 of the odd-numbered year shall be required to reapply as a new dealer or investment adviser. The registration of any dealer, investment adviser salesman, or investment adviser representative may be revoked or terminated prior to its expiration by written notice filed with the commissioner by the registered dealer, registered salesman, registered investment adviser, or registered investment adviser representative concerned, and the revocation shall take effect as of the date and time of filing of the notice. Upon revocation or termination of the registration of any dealer, investment adviser, salesman, or investment adviser representative, the dealer's, investment adviser's, salesman's, or investment adviser representative's certificate of registration shall be surrendered to the commissioner for cancellation. The fee for registration and for each biennial renewal shall be [\$50] \$100 in the case of dealers and

investment advisers and [§10] §25 in the case of salesmen, and investment adviser representatives.

(m) Changes. Changes in registration occasioned by changes in the personnel of a partnership or in the principals, copartners, officers, or directors of any dealer or investment adviser's business may be made from time to time by written application setting forth the facts with respect to such change.

(n) Announcement of registration application. The commissioner, by rule, may require an applicant for initial registration as a dealer, investment adviser, salesperson, or investment adviser representative to publish an announcement of the application in one or more newspapers of general circulation in this State.

(o) Notice of intent to offer. Every registered dealer who intends to offer any security of any issue registered or to be registered shall notify the commissioner in writing of his intention so to do. The notice shall contain the name of the dealer, shall state the name of the security to be offered for sale, and whenever a dealer has prepared such notice and has forwarded the same by registered mail, postage prepaid, and properly addressed to the commissioner, such dealer, as to the contents of the notice and the filing thereof, is deemed to have complied with the requirements of this subsection.

(p) Issuers as dealers. Any issuer of a security required to be registered under this chapter selling such securities (other than in exempt transactions as defined in section 485-6), and any issuer of an exempt security as defined in section 485-4(9) and (10) offering such securities (other than (1) in exempt transactions as defined in section 485-6, or (2) through a dealer registered pursuant to this chapter) shall file with the commissioner a bond or deposit securities or cash in an amount, based on the total capitalization, to be determined by the commissioner in his discretion, which amount, however, shall not be less than \$5,000, nor more than \$25,000, subject also to the same conditions as herein prescribed in the case of dealers, and may appoint salesmen in the manner herein prescribed in the case of dealers.

(q) Capital requirement for dealers and investment advisers who have custody of or discretionary authority over client money, securities, or other assets. The commissioner may by rule require a minimum capital requirement for registered dealers which shall not be less than \$5,000 in the case of dealers and prescribe a ratio between net capital and aggregate indebtedness. The commissioner may by rule require a net worth requirement which shall not be less than \$5,000 for investment advisers."

SECTION 5. Section 485-15, Hawaii Revised Statutes, is amended to read as follows:

"§485-15 Denial, revocation of dealers', investment advisers', salesmen's, and investment adviser representative's registration; suspension during investigation, etc. Upon the finding of errors in a registration statement or the filing of complaints by consumers or by any government agency, the commissioner may conduct an investigation of the applicant or registrant and registration under section 485-14 may be refused or any registration granted may be revoked by the commissioner of securities if after a reasonable notice and a hearing the commissioner determines that the applicant or registrant so registered:

- (1) Has violated this chapter or any rule made hereunder;
- (2) Has made a material false statement in the application for registration;

- (3) Has been guilty of a fraudulent act in connection with any sale of securities, or has been or is engaged or is about to engage in making fictitious or pretended sales or purchases of any such securities or has been or is engaged or is about to engage in any practice or sale of securities which is fraudulent or in violation of law; or
- (4) Has demonstrated his unworthiness to transact the business of dealer, investment adviser, salesman, or investment adviser representative.]
- (1) Has filed an application for registration which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;
- (2) Has violated or failed to comply with any provision of this chapter or any rule or order under this chapter;
- (3) Has been convicted, within the past ten years, of any misdemeanor involving a security or any aspect of the securities business, or any felony;
- (4) Is permanently or temporarily enjoined by any court of competent jurisdiction for engaging in or continuing any conduct or practice involving any aspect of the securities business;
- (5) Is the subject of an order of the commissioner denying, suspending, or revoking registration as a dealer, investment adviser, salesman, or investment adviser representative;
- (6) Is the subject of an order entered within the past five years by the securities administrator of any other state or by the Securities and Exchange Commission denying or revoking registration as a dealer, investment adviser, salesman, or investment adviser representative, or the substantial equivalent of those terms as defined in this chapter, or is the subject of an order of the Securities and Exchange Commission suspending or expelling the applicant or registrant from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United States Post Office fraud order; but:
 - (A) The commissioner may not institute a revocation or suspension proceeding under this paragraph more than one year from the date of the order relied on, and
 - (B) The commissioner may not enter an order under this paragraph on the basis of an order under another law of this State unless that order was based on facts which would currently constitute a ground for an order under this section;
- (7) Has engaged or is about to engage in fraudulent, dishonest, or unethical practices in the securities business;
- (8) Is insolvent, either in the sense that liabilities exceed assets or in the sense that the dealer, investment adviser, salesman, or investment adviser representative cannot meet obligations as they mature; but the commissioner may not enter an order against a dealer or investment adviser under this paragraph without a finding of insolvency as to the dealer or investment adviser;

- (9) Is not qualified on the basis of such factors as training, experience, and knowledge of the securities business;
- (10) Has failed reasonably to supervise agents, if a dealer, or employees, if an investment adviser; for the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any person if there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violations by such other person, and such person has reasonably discharged the duties and obligations incumbent upon the person by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with; or
- (11) Has demonstrated unworthiness to transact the business of dealer, investment adviser, salesman, or investment adviser representative.

In cases of charges against a salesman or investment adviser representative notice thereof shall also be given the dealer or investment adviser employing such salesman or investment adviser representative. Pending the hearing the commissioner may order the suspension of the dealer's, investment adviser's, salesman's, or investment adviser representative's registration; provided the order states the cause for the suspension.

Until the entry of a final order the suspension of the dealer's or investment adviser's registration, though binding upon the persons notified thereof, shall be deemed confidential, and shall not be published, unless it appears that the order of suspension has been violated after notice.

In the event the commissioner determines to refuse or revoke a registration as hereinabove provided, he shall enter a final order herein with his findings on the register of dealers, investment advisers, salesmen, and investment adviser representatives; and suspension or revocation of the registration of a dealer or investment adviser shall also suspend or revoke the registration of all his salesmen or investment adviser representatives.

It shall be sufficient cause for refusal or cancellation of registration in case of a partnership or corporation or any unincorporated association, if any member of a partnership or any officer or director of the corporation or association has been guilty of any act or omission which would be cause for refusing or revoking the registration of an individual dealer, investment adviser, salesman, or investment adviser representative."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 28, 1986.)

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to secure information from an applicant for civil identification by requiring documentation, and to provide the funding necessary to register applicants for certificates of identification on the neighbor islands.

SECTION 2. Section 846-29, Hawaii Revised Statutes, is amended to read as follows:

"§846-29 Procedure. All information required by section 846-28[, as far as practicable,] shall be secured by employees of the department of the attorney general as provided for by rules of the department and by personal interviews with the [persons registered] applicant for registration or responsible members of the same household. Every applicant and other person giving information [in] on behalf of any applicant under this part shall answer truthfully all questions [and], furnish all information within the possession or knowledge of the person which may be asked or requested by the employee within the scope of the requirements of this part[.], and submit to the department all information and supporting documentation required by rules of the department.

Special provisions may be made by rules of the attorney general (1) for the registration of inmates, employees, and others residing at or in hospitals, [jails, prisons, asylums,] correctional facilities, homes for the aged, indigent homes, and other institutions, and (2) for the registration of other persons, whenever special treatment is required so as to minimize hardship or inconvenience attendant upon the registration contemplated by this part."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,500, or so much thereof as may be necessary for fiscal year 1986-1987, to cover the costs of interisland travel, including air fare and subsistence, for the purpose of registration of applicants for certificates of identification. The sum appropriated shall be expended by the department of the attorney general.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 28, 1986.)

ACT 242

H.B. NO. 2299-86

A Bill for an Act Relating to the Hawaii Right to Farm Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 165-1, Hawaii Revised Statutes, is amended to read as follows:

"[]§165-1[] Findings and purpose. The legislature finds that when nonagricultural land uses extend into agricultural areas, farming operations often become the subject of nuisance lawsuits [which] that may result in the premature removal of lands from agricultural use and [discourages] may discourage future investments in agriculture. The legislature also finds that under the Hawaii State Planning Act, it is a declared policy of this State to

“foster attitudes and activities conducive to maintaining agriculture as a major sector of Hawaii’s economy.” Accordingly, it is the purpose of this chapter to reduce the loss to the State of its agricultural resources by limiting the circumstances under which farming operations may be deemed to be a nuisance.”

SECTION 2. Section 165-2, Hawaii Revised Statutes, is amended to read as follows:

“[§165-2] **Definitions.** As used in this chapter, unless the context otherwise requires:

[(1)] “Farming operation” means a commercial agricultural or aquacultural facility or pursuit conducted, in whole or in part, in an area zoned by the county for agricultural use, including the care and production of livestock and livestock products, poultry and poultry products, and apiary, horticultural, or floricultural products; the planting, cultivating, and harvesting and processing of crops; and the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment[;]. A farming operation that conducts processing operations or salt, brackish, or freshwater aquaculture operations on land that is zoned for industrial, commercial, or other nonagricultural use shall not, by reason of such zoning, fall beyond the scope of this definition; provided that such processing operations form an integral part of operations that otherwise meet the requirements of this definition.

[(2)] “Nuisance” means any interference with reasonable use and enjoyment of land, including but not limited to smoke, odors, dust, noise, or vibration; provided that nothing in this chapter shall in any way restrict or impede the authority of the State to protect the public health, safety, and welfare. “Nuisance” as used in this chapter includes all claims that meet the requirements of this definition regardless of whether a complainant designates such claims as brought in nuisance, negligence, trespass, or any other area of law or equity; provided that nuisance as used in this chapter does not include an alleged nuisance that involves water pollution or flooding.

[(3)] “Established date of operation” means the date on which the farming operation commenced operation. [If the physical facilities of the farming operation are subsequently expanded, the established date of operation for each expansion is deemed to be a separate and independent established date of operation established as of the date of commencement of the expanded operation, and the commencement of the expanded operation shall not divest the farming operation of a previously established date of operation.] If the farming operation’s facilities, whether land or improvements, are subsequently expanded, and a complaint arises out of that expansion, the date of commencement of the expansion shall be deemed to be the relevant established date of operation for the purposes of that complaint. When claims arise out of several portions of a farming operation, the established date of operation for each claim shall be the established date of operation of the portion of the farming operation giving rise to the particular claim, which established date shall be a separate and independent established date of operation. The commencement of any expansion of an operation shall not divest the farming operation of a previously established date of operation, which shall remain applicable to operations commenced as of that previously established date of operation.

“Expansion” includes any increase in land or aquatic environment used by the farming operation for any of the operations listed under the

definition of "farming operation" or any increase in buildings, equipment that is fixed in place, or other permanent structures that results in the alleged nuisance.

"Expansion" does not include:

- (1) Additions of or increases in movable equipment, including but not limited to tractors, trucks, trailers, barges, airplanes, helicopters, and boats; or
- (2) A change in or addition to the type of livestock, poultry, apiary, horticultural, or floricultural product or crop produced by a farming operation, unless such change or addition results in:
 - (A) The creation of a nuisance that continues beyond the period of transition during which the change is implemented or the addition made; or
 - (B) A substantial increase in the gravity of a previously present nuisance; provided that such increase extends beyond the period of transition."

SECTION 3. Section 165-4, Hawaii Revised Statutes, is amended to read as follows:

"[[§165-4[]] Right to farm. (a) No court, official, public servant, or public employee shall declare any farming operation a nuisance for any reason if all of the following have been proven:

- (1) That the farming operation was not in violation of this section at its established date of operation;
- (2) That the stated or implied basis for the nuisance complaint is that conditions have changed in the vicinity of the farming operation since its established date of operation;
- (3) That the farm operation was lawfully in operation for at least one year prior to the nuisance complaint;
- (4) That the alleged nuisance did not result from the negligent conduct or improper operation of the farming operation; or from any aspect of the operation which is determined to be injurious to public health or safety; and
- (5) That the alleged nuisance does not involve water pollution or flooding.]
- (1) That during the twelve-month period preceding the filing of the nuisance complaint with a court or other adjudicative public body, the farming operation complied with statutes, ordinances, regulations, or rules relevant to the nuisance complaint; and
- (2) That the farming operation has used reasonable care in conducting its operation.
- (b) Notwithstanding a farming operation's satisfaction of subsection (a)(1), (2), and (3), a farming operation may be declared a nuisance if:
 - (1) The farming operation or any aspect thereof has been previously determined to be injurious to public health or safety by the department of health, the department of agriculture, or a court of competent jurisdiction; and
 - (2) The complainant establishes by a preponderance of the evidence that the alleged nuisance resulted from the injurious operation or aspect thereof. Any determination of injuriousness shall be in writing and shall set forth the bases for the determination."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 28, 1986.)

ACT 243

H.B. NO. 2446-86

A Bill for an Act Making an Appropriation for the Preliminary Planning and Design of a Statewide Computerized Juvenile Justice Information System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$127,000, or so much thereof as may be necessary for fiscal year 1986-1987, for the planning and design of a statewide computerized juvenile justice information system.

SECTION 2. The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved May 28, 1986.)

ACT 244

H.B. NO. 2482-86

A Bill for an Act Relating to Abuse of Family and Household Members.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 709-906, Hawaii Revised Statutes, is amended to read as follows:

"§709-906 Abuse of family and household members; penalty. (1) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member, or to refuse compliance with the lawful order of a police officer under subsection (4). The police, in investigating any complaint of abuse of a family or household member may, upon request, transport the abused person to a hospital or safe shelter.

For the purposes of this section, "family or household member" means spouses or former spouses, parents, children, and persons jointly residing or formerly residing in the same dwelling unit.

(2) Any police officer may, with or without a warrant, arrest a person if the officer has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member, and that the person arrested is guilty thereof.

(3) A police officer who has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member shall prepare a written report.

(4) Any police officer may, with or without a warrant, take the following course of action where the officer has reasonable grounds to believe that there was recent physical abuse or harm inflicted by one person upon a family or household member, whether or not such physical abuse or harm occurred in the officer's presence:

- (a) The police officer may make reasonable inquiry of the family or household member upon whom the officer believes recent physical abuse or harm has been inflicted and other witnesses as there may be; and
 - (b) Where the police officer has reasonable grounds to believe that there is probable danger of further physical abuse or harm being inflicted by one person upon a family or household member, the police officer may lawfully order such person to leave the premises for a cooling off period of twelve hours; and
 - (c) All persons who are ordered to leave as stated above shall be given a written warning citation stating the date, time, and location of the warning and stating the penalties for violating the warning. A copy of the warning citation shall be retained by the police officer and attached to a written report which shall be submitted in all cases. A third copy of the warning citation shall be given to the abused person; and
 - [(c)] (d) If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of twelve hours, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member.
- (5) Abuse of a family or household member, and refusal to comply with the lawful order of a police officer under subsection (4) are misdemeanors; provided that a person convicted under this section shall serve a minimum jail sentence of forty-eight hours and be required to undergo any available domestic violence treatment and counseling program as ordered by the court.
- (6) Any police officer who arrests a person pursuant to this section shall not be subject to any civil or criminal liability; provided that the police officer acts in good faith, upon reasonable belief, and does not exercise unreasonable force in effecting such arrest.
- (7) The family or household member who has been physically abused or harmed by another person may petition the family court, with the assistance of the prosecuting attorney of the applicable county, for a penal summons or arrest warrant to issue forthwith, or may file a criminal complaint through the prosecuting attorney of the applicable county.
- (8) The respondent shall be taken into custody and brought before the family court at the first possible opportunity. The court may then dismiss the petition or hold the respondent in custody, subject to bail. Where the petition is not dismissed, a hearing shall be set.
- (9) This section shall not operate as a bar against prosecution under any other section of this Code in lieu of prosecution for abuse of a family or household member.
- (10) It shall be the duty of the prosecuting attorney of the applicable county to assist any victim under this section in the preparation of the penal summons or arrest warrant.
- (11) This section shall not preclude the physically abused or harmed family or household member from pursuing any other remedy under law or in equity.
- (12) Upon dismissal of such person and discharge of the proceeding against the person under this section, such person, if the offense is the only offense against the other family or household member for a period of not less than one year, may apply for an order to expunge from all official records all

recordation relating to the person's arrest, trial, finding of guilt, and dismissal and discharges pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against the person were discharged and that no other similar offenses were charged against the person for a period of not less than one year, it shall enter such order.

(13) If a person is ordered by the court to undergo treatment or counseling at any available domestic violence program, that person shall provide adequate proof of compliance with the court order as instructed by the court."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 28, 1986.)

ACT 245

H.B. NO. 2786-86

A Bill for an Act Relating to the University of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 445-112, Hawaii Revised Statutes, is amended to read as follows:

"§445-112 Where and when permitted. No person shall erect, maintain, or use a billboard or display any outdoor advertising device, except as herein provided:

- (1) The display of official notices and signs, posted by order of any court or public office, or posted by any public officer in the performance of a public duty, or posted by any person required to do so by any statute or ordinance or [regulation] rule having the force of law.
- (2) Any outdoor advertising device announcing a meeting or series of meetings is not prohibited by this section if displayed on the premises where the meeting or series of meetings will be or is being held. Meeting, as used in this section, includes all meetings whether open to the public or not, or whether conducted for profit or not, and, including but not limited to, sports events, conventions, fairs, rallies, plays, lectures, concerts, motion pictures, dances, and religious services.
- (3) Any outdoor advertising device indicating that the building or premises on which it is displayed is the residence, office, or place of business, commercial or otherwise, of any individual, partnership, joint venture, association, club, or corporation, and stating the nature of the business.
- (4) Any outdoor advertising device which advertises property or services which may be bought, rented, sold, or otherwise traded in on the premises or in the building on which the outdoor advertising device is displayed.
- (5) The offering for sale of merchandise bearing incidental advertising, including books, magazines, and newspapers, in any store, newsstand, vending machine, rack, or other place where such merchandise is regularly sold.

- (6) Any outdoor advertising device offering any land, building, or part of a building for sale or rent if displayed on the property so offered, or on the building of which part is so offered.
- (7) Any outdoor advertising device carried by persons or placed upon vehicles used for the transportation of persons or goods.
- (8) Any outdoor advertising device warning the public of dangerous conditions which they may encounter in nearby sections of streets, roads, paths, public places, power lines, gas and water mains, or other public utilities.
- (9) Signs serving no commercial purpose, which indicate places of natural beauty, or of historical or cultural interest, and are made according to designs approved by the department of planning and economic development.
- (10) Any outdoor advertising device or billboard erected, placed, or maintained upon a state office building, if erected, placed, or maintained by authority of a state agency, department, or officer for the sole purpose of announcing cultural or educational events within the State, and if the design and location thereof has been approved by the department of planning and economic development.
- (11) Signs urging voters to vote for or against any person or issue, if erected not more than forty-five days before, and removed not less than ten days after, the election in which the person is a candidate or in which the issue is to be voted upon.
- (12) Signs stating that a residence which is offered for sale, lease, or rent is open for inspection at the actual time the sign is displayed and showing the route to the residence, provided the sign contains no words or designs other than the words "Open House," the address of the residence, the name of the person or agency responsible for the sale and an arrow or other directional symbol, and is removed during such time as the residence is not open for inspection.
- (13) The erection, maintenance, and use of billboards if the billboard is used solely for outdoor advertising devices not prohibited by this section.
- (14) The continued display and maintenance of outdoor advertising devices actually displayed on July 8, 1965, in accordance with all laws and ordinances immediately theretofore in effect.
- (15) The continued maintenance of any billboard actually maintained on July 8, 1965, and the display thereon of the same or new advertising devices, all in accordance with all laws and ordinances in effect immediately prior to July 8, 1965.
- (16) Any outdoor advertising device displayed with the authorization of the University of Hawaii on any scoreboard of any stadium owned by the university. An outdoor advertising device displayed under this paragraph shall be on the front of the scoreboard and face the interior of the stadium.
- (17) Until September 1, 1986, any temporary outdoor advertising device attached to or supported by the structure of any stadium owned by the University of Hawaii, located within and facing the interior of the stadium, and authorized to be displayed by the university. For the purpose of this paragraph, "temporary" means displayed for a short period before the official start of organized

athletic competition, during the organized athletic competition, and for a short period after the official end of the organized athletic competition."

SECTION 2. Section 445-113, Hawaii Revised Statutes, is amended to read as follows:

"§445-113 Regulation by counties. [The] Except for outdoor advertising devices authorized under section 445-112(16) and (17), the several counties may adopt ordinances regulating billboards and outdoor advertising devices not prohibited by sections 445-111 to 445-121. The ordinances may:

- (1) Classify billboards and outdoor advertising devices in the classes set forth in section 445-112, or in any other reasonable manner of classification;
- (2) Regulate the size, manner of construction, color, illumination, location, and appearance of any class of billboard or outdoor advertising device;
- (3) Prohibit the erection or maintenance of any class of billboard or the displaying of outdoor advertising device in particular parts, or in all parts, of the county, provided[,] that the prohibition shall not apply to any official notice or sign described in section 445-112(1);
- (4) Control and license the business of making, erecting, posting, renting, and maintaining outdoor advertising devices and billboards as a business providing advertising for others, and require each person engaging in such business to obtain an annual license, the fee for which shall not exceed \$100. The license shall be conditioned upon the maintenance of all outdoor advertising devices and billboards in a safe state, and the observance of sections 445-111 to 445-121 and all applicable ordinances and shall be revocable by the licensing authority upon breach of such condition;
- (5) Require that no person, whether licensed under paragraph (4) or not, shall erect or maintain any billboard unless it is licensed by a permit issued by the county, the issuance of which permit shall be conditioned upon compliance with this chapter and all applicable ordinances and the payment to the county of an annual fee not to exceed \$25 per billboard; and
- (6) Provide for such other regulation of billboards and outdoor advertising devices as will promote the public health, welfare, safety, and convenience; encourage and promote the tourist and visitor trade; conserve and develop the natural beauty of the State, as well as objects and places of historic and cultural interest; foster sightliness and physical good order; and promote the purposes and provisions of sections 445-111 to 445-121."

SECTION 3. The University of Hawaii shall submit to the legislature a report on the display of outdoor advertising devices in each stadium owned by the university. The report shall include, but not be limited to:

- (1) The criteria used to determine the content of outdoor advertising devices which have been or will be authorized by the university for display in each stadium; and
- (2) The size, manner of construction, material, color, illumination, location, appearance, and period of display of outdoor advertising

devices which have been or will be authorized by the university for display in each stadium.

The report shall be submitted to the legislature prior to the convening of the Regular Session of 1987.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 28, 1986.)

ACT 246

S.B. NO. 934

A Bill for an Act Relating to Land Court Registration.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 501, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§501- Definitions. As used in this chapter, unless the context otherwise requires:

“Enter”, “entered”, or “entering” means to note the purpose of a filed or recorded document on the certificate of title.

“File”, “filed”, or “filing” means to accept, maintain, and preserve all instruments required to be filed.

“Record”, “recorded”, or “recording” means to make an entire literal copy of all instruments required to be recorded.”

SECTION 2. Chapter 501, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§501- Rules. The supreme court of the State of Hawaii shall adopt, amend, and repeal rules relating to the processing of land court documents and instruments.”

SECTION 3. Section 501-31, Hawaii Revised Statutes, is amended to read as follows:

“§501-31 Transfers pending application; temporary record; final record. After the filing of an application, and before registration, the land therein described may be dealt with and instruments relating thereto shall be recorded and indexed by the registrar of conveyances in the usual manner and also entered in the index of applications; provided that such instruments shall state that application to register the land is pending and shall state the application number. A certified copy thereof shall be filed with the application. When any such instrument purports to convey the whole or any interest in the land, the original after recording shall be sent to the land court and filed with the application, whereupon the certified copy may be withdrawn.

As soon as an application is disposed of, the registrar shall make a memorandum stating the disposition of the case and shall send the same to the assistant registrar, who shall record and index it with the records of deeds in the bureau of conveyances, and in the index of applications. If the proceedings upon the application end in a decree of registration of title the land included therein shall, as soon as the decree is transcribed, as provided in section 501-75, become registered land. Thereafter no deeds or other

instruments relating solely to such land shall be recorded with the records of deeds, but shall be registered in the registration book and filed or recorded and indexed with the records and documents relating to registered land.”

SECTION 4. Section 501-102, Hawaii Revised Statutes, is amended to read as follows:

“§501-102 Filing liens, etc., notice. Every conveyance, lien, attachment, order, decree, instrument, or entry affecting registered land, which would under existing laws, if recorded, filed, or entered in the bureau of conveyances, affect the real estate to which it relates, shall, if registered, filed[,] or recorded, or entered in the office of the assistant registrar in the bureau of conveyances, be notice to all persons from the time of such registering, filing, recording, or entering. This section shall not be construed to relate to federal tax liens, and the recording of which shall be as provided by chapter 505.”

SECTION 5. Section 501-103, Hawaii Revised Statutes, is amended to read as follows:

“§501-103 Conveyances of less than fee simple. No new certificate shall be entered or issued upon any transfer of registered land which does not divest the title in fee simple from the owner or [some] one of the registered owners. All interests in registered land less than an estate in fee simple shall be registered by filing or recording with the assistant registrar the instrument creating or transferring or claiming such interest, and by a brief memorandum thereof made by the assistant registrar upon the certificate of title, and signed by [him.] the assistant registrar. A similar memorandum shall also be made on the owner's duplicate. The cancellation or extinguishment of such interests shall be registered in the same manner.”

SECTION 6. Section 501-105, Hawaii Revised Statutes, is amended to read as follows:

“§501-105 Grantee's residence, etc., to be stated. Every deed or other voluntary instrument presented for registration shall contain or have indorsed upon it the full name or names, if more than one, place of residence, [and] or post office address of the grantee or other person acquiring or claiming an interest under the instrument and every deed shall also contain or have indorsed upon it a statement that the grantee is married or unmarried, and if married, the statement shall give the name in full of the husband or wife. Any change in the residence or post office address of such person shall be indorsed by the assistant registrar on the original document, on receiving a sworn statement of the change. All names and addresses shall also be entered on all certificates. Notices and processes issued in relation to registered land in pursuance of this chapter may be served upon any person in interest by mailing the same to the address so given, and shall be binding whether such person resides within or without the State.”

SECTION 7. Section 501-107, Hawaii Revised Statutes, is amended to read as follows:

“§501-107 Entry [book;] record; duplicates and certified copies. The assistant registrar shall keep [an entry book] a record in which [he] shall [enter in the order of their reception] be entered all deeds and other voluntary instruments, and all copies of writs or other process filed or recorded with [him] the assistant registrar relating to registered land. [He] The assistant

registrar shall note in the [book] record the [year, month, day, hour, and minute] date of reception of all instruments[, in the order in which they are received]. [They] The instruments shall be stamped with the date, hour, and minute of reception and shall be regarded as registered from the date and time so noted, and the memorandum of each instrument when made on the certificate of title to which it refers shall bear the same date.

Every deed or other instrument, whether voluntary or involuntary, so filed or recorded with the registrar or assistant registrar shall be numbered and indexed, and indorsed with a reference to the proper certificate of title. All records [and papers] relating to registered land in the office of the registrar or of the assistant registrar shall be open to the public in the same manner as probate records are open, subject to such reasonable regulations as the registrar, under the direction of the court, may make.

Duplicates of all deeds and voluntary instruments, filed or recorded and registered may be presented with the originals, and shall be attested and sealed by the registrar or the assistant registrar and indorsed with the file number and other memoranda on the originals, and may be taken away by the person presenting the same. No more than two duplicates of such deeds and instruments shall be certified by the registrar without charge, and copies in excess thereof shall be certified upon the payment of 25 cents per page.

Certified copies of all instruments filed or recorded and registered may also be obtained at any time on payment of the assistant registrar's fees."

SECTION 8. Section 501-108, Hawaii Revised Statutes, is amended to read as follows:

"§501-108 Conveyance of fee; procedure. An owner desiring to convey in fee [his] registered land or any portion thereof shall execute a deed of conveyance, which the grantor or the grantee may present to the assistant registrar in the bureau of conveyances; provided[, that the assistant registrar shall not accept for registration any deed, mortgage, lease, or other voluntary instrument, unless a reference to the number of the certificate of title of the land affected by such instrument is incorporated in the body of the instrument tendered for registration.

The assistant registrar shall note upon all documents filed or recorded concurrently with the recorded instrument the document number and the certificate of title number in the spaces provided therefor wherever required.

The grantor's duplicate certificate shall be produced and presented at the same time. The assistant registrar shall thereupon, in accordance with the rules and instructions of the court, make out in the registration book a new certificate of title to the grantee, and shall prepare and deliver to [him] the grantee an owner's duplicate certificate. The assistant registrar shall note upon the original and duplicate certificates the date of transfer, the volume and page of the registration books where the new certificate is registered, and a reference by number to the last prior certificate. The grantor's duplicate certificate shall be surrendered, and the word "canceled" stamped upon it. The original certificate shall also be stamped "canceled." The deed of conveyance shall be filed or recorded and indorsed with the number and place of registration of the certificate of title of the land conveyed."

SECTION 9. Section 501-117, Hawaii Revised Statutes, is amended to read as follows:

"§501-117 Procedure. Registration of a mortgage shall be made in the manner following: the owner's duplicate certificate shall be presented to the

assistant registrar with the mortgage deed. [He] The assistant registrar shall enter upon the original certificate of title and also upon the owner's duplicate certificate a memorandum of the purport of the mortgage deed, the time of filing or recording, the [file] document number of the deed, and shall sign the memorandum. [He] The assistant registrar shall also note upon the mortgage deed the time of filing[,] or recording, and a reference to the volume and page of the registration book where it is registered."

SECTION 10. Section 501-118, Hawaii Revised Statutes, is amended to read as follows:

"§501-118 Foreclosure. Mortgages of registered land may be foreclosed like mortgages of unregistered land.

In case of foreclosure by action, a certified copy of the final judgment of the court confirming the sale may be filed or recorded with the assistant registrar or [his] the deputy after the time for appealing therefrom has expired and the purchaser shall thereupon be entitled to the entry of a new certificate.

In case of foreclosure by exercising the power of sale without a previous judgment the affidavit required by section 667-5 shall be filed or recorded and registered with the assistant registrar. The purchaser or the purchaser's assigns at the foreclosure sale [or his assigns] may thereupon at any time present the deed under the power of sale to the assistant registrar for filing or recording and registration, and obtain a new certificate, the owner's duplicate certificate being first delivered up and canceled. Nothing in this chapter shall be construed to prevent the mortgagor or other person in interest from directly impeaching by action or otherwise, any foreclosure proceedings affecting registered land, prior to the entry of a new certificate of title.

After a new certificate of title has been entered no judgment recovered on the mortgage note for any balance due thereon shall operate to open the foreclosure or affect the title to registered land."

SECTION 11. Section 501-131, Hawaii Revised Statutes, is amended to read as follows:

"§501-131 Transfer in trust; procedure. Whenever a deed or other instrument is filed or recorded for the purpose of transferring registered land in trust, or upon any equitable condition or limitation expressed therein, or for the purpose of creating or declaring a trust or other equitable interest in land without transfer, the particulars of the trust, condition, limitation, or other equitable interest shall not be entered on the certificate; but a memorandum thereon shall be entered by the words "in trust," or "upon condition," or other apt words, and by a reference by number to the instrument authorizing or creating the same. A similar memorandum shall be made upon the duplicate certificate. The assistant registrar shall note upon the original instrument creating or declaring the trust or other equitable interest a reference by number of the certificate of title to which it relates[, and to the volume and page in the registration book where it is registered]. If the instrument creating or declaring a trust or other equitable interest is already recorded in the bureau of conveyances or admitted to probate, or any order of a federal court creating or declaring a trust in real property has been made, a certified copy may be filed or recorded by the assistant registrar and registered."

SECTION 12. Section 501-132, Hawaii Revised Statutes, is amended to read as follows:

“§501-132 Powers to be noted on certificate; construction for court. If the instrument creating or declaring a trust or other equitable interest contains an express power to sell, mortgage, or deal with the land in any manner, the power shall be stated in the certificate of title by the words “with power to sell” or “with power to mortgage,” and by apt words of description in case of other powers.

No instrument transferring, mortgaging, or in any way dealing with registered land held in trust shall be registered, unless the power thereto enabling is expressly conferred in the instrument of trust, or unless the judgment of a court of competent jurisdiction has construed the instrument in favor of the power, in which case a certified copy of the judgment may be filed or recorded with the assistant registrar [and he] who shall make registration in accordance therewith.”

SECTION 13. Section 501-133, Hawaii Revised Statutes, is amended to read as follows:

“§501-133 New trustee. When a new trustee of registered land is appointed either by any court or otherwise, a new certificate [shall] may be entered [to him] upon presentation to the assistant registrar of a certified copy of the order or deed [appointing him] of appointment and the surrender of the duplicate certificate.”

SECTION 14. Section 501-134, Hawaii Revised Statutes, is amended to read as follows:

“§501-134 Trusts, implied or constructive. Whoever claims an interest in registered land by reason of any implied or constructive trust shall file or record for registration a statement thereof with the assistant registrar. The statement shall contain a description of the land, and a reference to the number of the certificate of title and the volume and page of the registration book where it is entered. The claim shall not affect the title of a purchaser for value and in good faith before its registration.”

SECTION 15. Section 501-136, Hawaii Revised Statutes, is amended to read as follows:

“§501-136 Attachment and other liens; filing or recording of. In every case where a writing of any description or a copy of any writ is required by law to be filed or recorded in the bureau of conveyances in order to create or preserve any lien, right, or attachment upon unregistered land, such writing or copy, when intended to affect registered land shall be filed or recorded and registered with the assistant registrar. In addition to any particulars required in such papers for recording with records of deeds, it shall also contain a reference to the number of the certificate of title of the land to be affected[, and the volume and page of the registration book where the certificate is registered,] and also, if the attachment, right, or lien is not claimed on all the land in any certificate of title, a description sufficiently accurate for identification of the land intended to be affected. This section and section 501-138 do not apply to liens for internal revenue taxes payable to the United States.”

SECTION 16. Section 501-142, Hawaii Revised Statutes, is amended to read as follows:

“§501-142 Mechanic’s lien. When a mechanic’s lien or lien for labor and materials is claimed upon registered and unregistered land, and the notice required by law is filed in the circuit court where the land is situated, an attested copy of the [notice] order directing the lien to attach which contains or has indorsed upon it a reference to the certificate of title of the land affected shall be filed or recorded with the assistant registrar and registered.”

SECTION 17. Section 501-143, Hawaii Revised Statutes, is amended to read as follows:

“§501-143 Enforcement of lien. A lien of any description upon registered land shall be enforced in the same manner as like liens upon unregistered land. Whenever registered land is set off or sold on execution; or taken or sold for taxes or for any assessment; or sold to enforce a lien for labor or materials, or the lien of a mortgagee or cotenant arising from a payment of taxes, or for an assessment, or for any costs and charges incident to any liens, any execution, or copy of the execution, any officer’s return, or any deed, demand, certificate, or affidavit or other instrument made in the course of proceedings to enforce the liens and required by law to be recorded in the bureau of conveyances in the case of unregistered land, shall be filed or recorded and registered with the assistant registrar and a memorandum made upon the proper certificate of title in each case as an adverse claim or encumbrance.”

SECTION 18. Section 501-151, Hawaii Revised Statutes, is amended to read as follows:

“§501-151 Pending actions, judgments; recording of, notice. No writ of entry, action for partition, or any action affecting the title to real property or the use and occupation thereof or the buildings thereon, and no judgment, nor any appeal or other proceeding to vacate or reverse any judgment, shall have any effect upon registered land as against persons other than the parties thereto, unless a full memorandum thereof, containing also a reference to the number of certificate of title of the land affected[, and the volume and page of the registration book where it is entered,] is filed or recorded and registered[, and a copy thereof sent by the assistant registrar by registered mail to the registered owner and holder of the certificate of title of the land affected, at his last known address]. This section does not apply to attachments, levies of execution, or to proceedings for the probate of wills, or for administration in a probate court; provided[, that in case notice of the pendency of the action has been duly registered it is sufficient to register the judgment in the action within sixty days after the rendition thereof.

As used in this chapter “judgment” includes an order or decree having the effect of a judgment.

Notice of the pendency of an action in a United States District Court, as well as a [State] state court, may be filed or recorded and registered.”

SECTION 19. Section 501-156, Hawaii Revised Statutes, is amended to read as follows:

“§501-156 Partition. In an action for partition of registered land, after the entry of the final judgment of partition and the acceptance of the report of the commissioners, if any, a copy of the judgment and of the return of the commissioners, certified by the clerk or registrar, as the case may be, shall be filed or recorded and registered. Thereupon, in case the land is set off to the owners in severalty, any owner is entitled to have a certificate entered of the

share set off to [him] the owner in severalty, and to receive an owner's duplicate therefor. In case the land is ordered by the court to be sold, the purchaser or [his] the purchaser's assigns are entitled to have a certificate of title entered [to him or them] on presenting the deed of the commissioners for registration; provided[,] that any new certificate entered in pursuance of partition proceedings, whether by way of set-off or of sale, shall contain a reference to the final judgment of partition, and shall be conclusive as to the title to the same extent and against the same persons as the judgment is made conclusive by the statutes applicable thereto. Any person holding such certificate of title or a transfer thereof may petition the court any time to cancel the memorandum relating to the judgment and the court, after notice and hearing, may grant the application. The certificate thereafter is conclusive in the same manner and to the same extent as other certificates of title."

SECTION 20. Section 501-158, Hawaii Revised Statutes, is amended to read as follows:

"§501-158 Notice of bankruptcy proceedings. Whenever a petition in bankruptcy which contains or has indorsed upon it a reference to the number of the certificate of title of the land affected is filed or recorded within the State by or against the owner of registered land, the assistant registrar of the land court shall note the fact by the entry of an appropriate memorandum on the owner's certificate in the registration book. Thereafter, except where the owner's interest in the land cannot be affected by the bankruptcy proceedings, no conveyance by the owner respecting the registered land shall be accepted for registration unless the conveyance recites that it is made subject to the rights of the trustee in bankruptcy. A trustee in bankruptcy is entitled to the entry of a new certificate for the registered land upon presenting and filing or recording the bankrupt's duplicate certificate of title together with a certified copy of either the petition in bankruptcy (the schedules may be omitted), or the decree of adjudication of bankruptcy, or the order approving the trustee's bond[.]; provided that the instrument contains or has indorsed upon it a reference to the number of the certificate of title of the land affected. The new certificate shall state that it is entered to [him as] the trustee in bankruptcy."

SECTION 21. Section 501-159, Hawaii Revised Statutes, is amended to read as follows:

"§501-159 Decree of discharge. Whenever proceedings in bankruptcy against a registered owner of which notice has been registered, are vacated, or when the court of bankruptcy orders a reconveyance of land to a bankrupt debtor, a certified copy of the order or decree may be filed or recorded and registered. If a new certificate has been entered to the trustee in bankruptcy, as registered owner, the debtor is entitled to the entry of a new certificate [to him], and the certificate of the trustee shall be surrendered."

SECTION 22. Section 501-171, Hawaii Revised Statutes, is amended to read as follows:

"§501-171 Registration upon transfer by descent and devise. When the owner of registered land, or of any estate or interest therein, dies, having devised the same by will, the person or persons entitled thereto may file or record with the assistant registrar of the land court the duplicate certificate issued to the testator, a correct statement of the full names of the devisees, the residence [and] or post office address of each and their marital status[.]

and a reference to the number of the certificate of title of the land affected, a certified copy of the will, either a certified copy of the order of the circuit court admitting it to probate or a certified copy of the written statement of the registrar of the circuit court admitting it to informal probate, and a certified copy of an order of the circuit court determining the persons entitled to distribution of the registered land and directing or approving distribution, and thereupon the assistant registrar shall cancel the duplicate certificate issued to the testator, and issue a new duplicate certificate or certificates to the devisee or devisees. When the owner of registered land or of any estate or interest therein dies, not having devised the same, the persons entitled thereto by law may file or record with the assistant registrar the duplicate certificate issued to the intestate, a correct statement of the full names of the heirs, the residence and post office address of each, and their marital status, a certified copy of the judgment of the circuit court in an action determining the heirs, or a certified copy of an order of the circuit court in probate proceedings determining the persons entitled to distribution of the registered land and directing or approving distribution, and thereupon the assistant registrar shall cancel the duplicate certificate issued to the intestate, and issue a new duplicate certificate or certificates to the heir or heirs entitled thereto.

Instruments which must be registered. No voluntary instrument or deed of a personal representative, assignee for the benefit of creditors, sheriff, master, commissioner, or other officer purporting to transfer or create a lien or charge upon any estate or interest of any devisee or heir in registered land or to authorize the same to be done, shall have any effect to accomplish that purpose until the title of the heir or devisee is registered as herein provided. An involuntary lien, charge, or lis pendens against the interest of a relict, heir, or devisee in the lands of a deceased registered owner, prior to the registration of the title of such relict, heir, or devisee, only can be obtained by filing or recording the proper papers with the assistant registrar as in other cases, and the assistant registrar making entry thereof as a memorial on the registered certificate of title of the deceased owner, giving the name, residence, [and] or post office address of the relict, heir, or devisee against whom the lien, charge, or lis pendens is to operate."

SECTION 23. Section 501-173, Hawaii Revised Statutes, is amended to read as follows:

"§501-173 Purchaser acquiring title through personal representative may have the same registered. If any personal representative is authorized by the terms of any will to grant, bargain, sell, convey, mortgage, or otherwise deal with registered land, [he] the personal representative may do so in the manner as if the land were registered in [his] the representative's name as personal representative. Before any instrument executed by the personal representative, pursuant to such authority, is filed or recorded with the assistant registrar of the land court, there shall be first filed or recorded with the assistant registrar a certified copy of the will together with a certified copy of the order of the circuit court admitting the same to probate or a certified copy of the written statement of the registrar of the circuit court admitting it to informal probate, and a certified copy of the letters, on which shall be listed all orders of the circuit court relating to the personal representative's authority to grant, bargain, sell, convey, mortgage, lease, or otherwise deal with real property, and a certified copy of each such order. Any person who acquired title or any interest in registered land through or

by virtue of the execution of the power vested in the personal representative may have the title or interest registered."

SECTION 24. Section 501-174, Hawaii Revised Statutes, is amended to read as follows:

"§501-174 Power of attorney; registration necessary. Any person may by attorney procure land to be registered and convey or otherwise deal with registered land, but the letters of attorney shall be acknowledged and filed or recorded with the assistant registrar and registered. Any instrument revoking such letters shall be acknowledged and registered in like manner."

SECTION 25. Section 501-218, Hawaii Revised Statutes, is amended to read as follows:

"§501-218 Schedule of fees. Except where otherwise provided the fees payable under this chapter are as follows:

- (1) For every application filed pursuant to this chapter, including indexing and recording the same, and transmitting to registrar, when filed with assistant registrar, \$3.
- (2) For every plan filed, \$1.
- (3) For indexing any instrument recorded while application for registration is pending, 25 cents.
- (4) For examining title, \$10 and two-tenths of one per cent of the assessed value of the land and improvements on the basis of the last assessment for taxation, or the value of the same as determined under section 501-211 when the land was not separately assessed.
- (5) For verifying and checking map on the ground, for lots of one acre or less, \$25; an addition of \$1 an acre or fraction thereof for all area over one acre and up to one hundred acres; an addition of 50 cents an acre or fraction thereof for all area over one hundred acres and up to five hundred acres; an addition of 50 cents an acre or fraction thereof for all area over five hundred acres and up to one thousand acres; an addition of 25 cents an acre or fraction thereof for all area over one thousand acres.
- (6) For checking survey and map as to form and mathematical correctness but not on the ground, \$3 an hour.
- (7) For approving subdivision of registered land, and for checking same as to form and mathematical correctness but not on the ground, \$3 an hour.
- (8) For all services by a sheriff or other police officer under this chapter, the same fees as are now provided by law for like services.
- (9) For each instrument affecting a title not reported in applicant's filed abstract of title, \$2.
- (10) For filing an amended application, \$1.
- (11) For each notice by publication, 25 cents.
- (12) For entering any general default, \$1.
- (13) For filing any answer, \$1, to be paid by the party filing the same.
- (14) For every subpoena, \$1.
- (15) For swearing each witness, 10 cents.
- (16) For entering any discontinuance, \$1.
- (17) For filing notice of appeal, \$30.

- (18) For entry of order dismissing application, or decree of registration, and sending memorandum to assistant registrar, \$1.
- (19) For copy of decree of registration, \$1.
- (20) For entry of original certificate of title and issuing owner's duplicate certificate, or for making and entering a new certificate of title including issue of one owner's duplicate, [20] \$25 if contained within four pages. For each additional page or fraction thereof, \$1.
- (21) For each owner's duplicate certificate after the first, \$10 if contained within four pages. For each additional page or fraction thereof, \$1.
- (22) For the registration of every instrument, including entering, indexing, filing[,] or recording, attesting registration, and making and attesting memorandum on certificates not in excess of four, [5,] \$10, except where herein otherwise provided, and [50 cents] \$1 for each additional memorandum on certificates in excess of four required by any one instrument.
- (23) For the certification of a copy of any instrument, the same fees as are provided by section 502-25.
- (24) For filing or recording and registering an adverse claim, \$3.
- [(25)] For entering statement of change of residence and post office address, including indorsing and attesting same on a duplicate certificate, \$2.50.
- (26) For entering any note in the entry book or in the registration book, \$1.]
- [(27)] (25) For registration of an order for a suggestion of death, fact of marriage, [order for] divorce, subdivision, or notice of issue of an order in bankruptcy, [1.] \$10.
- [(28)] (26) For filing or recording any petition after original registration, \$1.
- [(29)] (27) For filing or recording any order after original registration, \$1.
- [(30)] (28) In all cases not expressly provided for by law the fees of all public officers for any official duty or service under this chapter shall be at a rate established by the court.
- [(31)] (29) For any application made by or in the name of the State, or any political subdivision thereof, any proceedings had upon such application or any dealing with registered land by the State, or any political subdivision thereof, as owner, no fees shall be charged."

SECTION 26. There is appropriated out of the general revenues of the State of Hawaii the sum of \$35,000, or so much thereof as may be necessary for fiscal year 1986-87, to be expended by the department of land and natural resources, for the purpose of retaining a consultant to assist in justification, selection, purchase, installation, and programming of a computer and computer-related equipment for the purpose of improving the efficiency of the present land title registration system, eliminating the document-processing backlog, and providing instant retrieval of land title information in the office of the assistant registrar of the land court in the bureau of conveyances.

SECTION 27. There is appropriated out of the general revenues of the State of Hawaii the sum of \$155,000, or so much thereof as may be necessary for fiscal year 1986-1987, to be expended by the department of land and

natural resources, for the purchase, installation and programming of a computer and computer-related equipment for the purpose of improving the efficiency of the present land title registration system, eliminating the document-processing backlog, and providing instant retrieval of land title information in the office of the assistant registrar of the land court in the bureau of conveyances.

SECTION 28. There is appropriated out of the general revenues of the State of Hawaii the sum of \$35,000, or so much thereof as may be necessary for fiscal year 1986-87, to be expended by the department of land and natural resources, for overtime pay, temporary positions, and rental of temporary data entry terminals for loading the computer with existing land title data in the office of the assistant registrar of the land court in the bureau of conveyances.

SECTION 29. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 30. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 247

H.B. NO. 82

A Bill for an Act Relating to Aquaculture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The employees in the aquaculture development program of the department of land and natural resources, not accorded civil service status and currently occupying the positions of manager, secretary II, clerk-typist II, disease specialist, aquaculture specialist, information specialist IV, information specialist III, economist/analyst, microbiologist III, and laboratory assistant II authorized, established, and funded pursuant to Act 12, Special Session Laws of Hawaii 1977, shall be converted to permanent civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, and shall be accorded all of the rights, benefits, and privileges attributable thereto. Those rights, benefits, and privileges shall include seniority, prior service credits, and vacation and sick leave credits, and other rights, benefits, and privileges accorded employees with civil service status. The positions held by these employees shall be allocated to the appropriate class in the position classification plan, and the affected employees shall continue to receive at least the same rate of pay as they currently receive despite the change in status; provided that subsequent changes in position classification and pay shall be made pursuant to chapters 76 and 77.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 248

S.B. NO. 1550-86

A Bill for an Act Relating to Liability of Officers or Directors of Nonprofit Corporations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 270, Session Laws of Hawaii 1985, Section 1, is amended by adding a new section to be appropriately designated and to read as follows:

“§ - **Exception to liability.** Any person who serves as an officer or director to the corporation without remuneration or expectation of remuneration shall not be liable for damage, injury, or loss caused by or resulting from the person's performance of, or failure to perform, duties of the position to which the person was appointed, unless the person was grossly negligent in the performance of, or failure to perform, such duties.”

SECTION 2. Chapter 416, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§416- **Exception to liability.** Any person who serves as an officer or director to a nonprofit corporation without remuneration or expectation of remuneration shall not be liable for damage, injury, or loss caused by or resulting from the person's performance of, or failure to perform, duties of the position to which the person was appointed, unless the person was grossly negligent in the performance of, or failure to perform, such duties.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 249

H.B. NO. 2102-86

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 202, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (b) to read as follows:

“(b) The provisions of section 76-16, Hawaii Revised Statutes, shall apply to the positions of the first deputy and private secretary to the chairman of the commission. The department may hire temporary staff on a contractual basis not subject to chapters 76, 77, and 78, Hawaii Revised Statutes, when the services to be performed will assist in carrying out the purposes of the Act. These positions may be funded through appropriations for capital improvement program projects and by the administration account, [development,] operating [funds,] fund, or native Hawaiian rehabilitation fund. No contract shall be for a period longer than two years, but individuals hired under contract may be employed for a maximum of six years; provided

that the six-year limitation shall not apply if the department, with the approval of the governor, determines that such contract individuals are needed to provide critical services for the efficient functioning of the department. All other positions in the department shall be subject to chapters 76 and 77, Hawaii Revised Statutes.

All vacancies and new positions which are covered by chapters 76 and 77, Hawaii Revised Statutes, shall be filled in accordance with sections 76-23 and 76-31, Hawaii Revised Statutes, provided that the provisions of these sections shall be applicable first to qualified persons of Hawaiian extraction."

SECTION 2. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

"§213. Funds and accounts. (a) There are established in the treasury of the State [seven] two revolving funds, to be known respectively as the Hawaiian home loan fund[, the additional receipts loan fund,] and the Hawaiian home general loan fund[, the Hawaiian home replacement loan fund, the Hawaiian home repair loan fund, the Hawaiian home farm loan fund, and the Hawaiian home operating fund].

(1) Hawaiian home loan fund. [Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses shall be deposited into this fund. The aggregate amount of this fund including:

(A) The outstanding principal of all loans, advances, and transfers which have been made to other funds for which this fund has not been or need not be reimbursed; and

(B) The installments of principal paid by the lessees upon loans made to them from the fund, or payments representing reimbursements on account of advances, but not including interest on such loans or advances,

shall not exceed \$5,000,000.] The moneys in this fund shall be available for the purposes enumerated in section 214 of this Act[.] and for payments provided in section 209 and shall not be expended for any other purpose except as provided in subsection (b)(1) of this section.

[That portion of the thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses, in excess of the present ceiling in the Hawaiian home loan fund of \$5,000,000, which amount is called "additional receipts," shall be transferred to the Hawaiian home development fund, to the additional receipts loan fund, and the Hawaiian home education fund as follows: fifteen per cent to the additional receipts loan fund; thirteen per cent to the Hawaiian home development fund; and seventy-two per cent to the Hawaiian home education fund; provided that the aggregate amount so transferred shall not exceed the maximum amount of \$5,000,000.]

Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home operating fund.

[(2) Additional receipts loan fund. Moneys transferred to this fund, installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursement on account of advances, but not including interest on such loans

or advances, shall be used for the purposes enumerated in section 214 of this Act.

- (3)] (2) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, [excluding moneys appropriated] for construction of replacement homes[;], for home repairs or additions, or for the development and operation of a farm, ranch, or aquaculture operation; moneys transferred from [the Hawaiian home interest fund;] other funds; and installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursements on account of advances, but not including interest on such loans or advances, shall be deposited into this fund. The moneys in the fund shall be used for purposes enumerated in section 214 of this Act[.]; provided that loans to lessees for repairs to their existing homes and for additions to such homes shall not be in excess of \$15,000; provided further that, in addition to the conditions enumerated in section 215, farm loans shall be subject to the following conditions: to be eligible for a farm loan the applicant shall derive, or present an acceptable plan to derive, a major portion of the applicant's income from farming; farm loans made for the purpose of soil and water conservation shall not exceed \$20,000 and shall be for a term not to exceed ten years. Subsidies and grants or cost-sharing funds entitled and received by the lessee for soil and water conservation purposes shall be assigned to the department for the repayment of the outstanding farm indebtedness; and the lessee shall carry out recommended farm management practices approved by a qualified agricultural agency.
- (A) The department may create an account within this fund to support the guarantee of repayment of loans made by government agencies or private lending institutions to a holder of a lease under section 207(a) of this Act or license issued under section 207(c)(1)(B) of this Act.
- (B) The department may create an account within this fund for moneys borrowed from government agencies or private lending institutions to be used for any of the purposes enumerated in section 214 of this Act. Installments of principal and that part of the interest equal to the interest charged to the department by the lender paid by the lessees on the loans made to them from this account shall be deposited into the same account; any additional interest or other earnings arising out of investments from this account shall be credited to and deposited into the Hawaiian home receipts fund.
- [(4) Hawaiian home replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their lots. Moneys appropriated by the legislature for replacement home construction loans; moneys transferred from the Hawaiian home interest fund; installments of principal paid by the lessees upon loans made to them from this fund; and moneys transferred from other funds or accounts by legislative authorization shall be deposited into this fund.

- (5) Hawaiian home repair loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian home interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited into this fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$15,000 to lessees for repairs to their existing homes and for additions to such homes.
- (6) Hawaiian home farm loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian home interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited into this fund. The moneys in this fund shall be used to make loans in the amount provided in section 215 for the development and operation of a farm, ranch, or aquaculture operation or ninety per cent of the cost of the project, whichever is less, to lessees of agricultural tracts, pastoral tracts, and tracts used for aquaculture leased under section 207 of this Act. In addition to the purposes enumerated in section 214(a) such loans may be made for the following purposes:
 - (A) The initial and on-going development, improvement, operation, and expansion of homestead farms, ranches, and aquaculture enterprises;
 - (B) The liquidation of indebtedness incurred for any of the foregoing purposes relating to farm loans aged less than five years;
 - (C) The payment of normal and reasonable living expenses of a full-time farmer;
 - (D) The planning, layout, and installation of soil and water conservation practices; or
 - (E) For emergency purposes to provide relief and rehabilitation to homestead farmers and ranchers due to damage by rain and wind storms, droughts, tidal wave, earthquake, volcanic eruption, and other natural catastrophies, and for livestock disease, epidemics, crop blights, and serious effects of prolonged shipping and dock strikes.

In addition to the conditions enumerated in section 215 farm loans shall be subject to the following conditions: to be eligible for a farm loan the applicant shall derive, or present an acceptable plan to derive a major portion of his income from farming; farm loans made for the purpose of soil and water conservation shall not exceed \$20,000 and shall be for a term not to exceed ten years. Subsidies and grants or cost sharing funds entitled and received by the lessee for soil and water conservation purposes shall be assigned to the department for the repayment of the outstanding farm indebtedness; and the lessee is required to carry out recommended farm management practices approved by a qualified agricultural agency.

- (7) Hawaiian home operating fund. The interest transferred from the Hawaiian home loan fund, all fees received by the department from any other source, and moneys transferred from the Hawaiian home interest fund, except moneys received by the Hawaiian home administration account, shall be directly deposited into the

Hawaiian home operating fund. The moneys in this fund shall be available:

- (A) For construction and reconstruction of revenue-producing improvements intended to principally serve occupants of Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests;
- (B) For payment into the treasury of the State of such amounts as are necessary to meet the interest and principal charges for state bonds issued for such revenue-producing improvements;
- (C) For operation and maintenance of such improvements constructed from such funds or other funds;
- (D) For the purchase of water or other utilities, goods, commodities, supplies, or equipment needed for services, or to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands; and
- (E) For appraisals, studies, consultants (architects, engineers), or any other staff services including those in section 202(b) required to implement, develop, and operate these projects.

The moneys in this fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, this fund, with the approval of the governor, may be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000.]

(b) There are established in the treasury of the State [eight] five special funds, to be known respectively as the Hawaiian home [development] operating fund, the Hawaiian home administration account, [the Hawaiian loan guarantee fund,] the Hawaiian home [interest] receipts fund, [the borrowed money fund,] the Hawaiian home trust fund, [the Hawaiian home education fund,] and the native Hawaiian rehabilitation fund.

- (1) Hawaiian home [development] operating fund. The interest transferred from the Hawaiian home loan fund, all moneys received by the department from any other source, and moneys transferred from the Hawaiian home receipts fund, shall be deposited into the Hawaiian home operating fund. The moneys in this fund, without the prior written approval of the governor, shall be available:

- (A) For construction and reconstruction of revenue-producing improvements intended to serve principally occupants of Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests;
- (B) For payment into the treasury of the State of such amounts as are necessary to meet the interest and principal charges for state bonds issued for such revenue-producing improvements;
- (C) For operation and maintenance of such improvements constructed from such funds or other funds;
- (D) For the purchase of water or other utilities, goods, commodities, supplies, or equipment needed for services, or to

be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands; and

- (E) For appraisals, studies, consultants (including architects, engineers), or any other staff services including those in section 202(b) required to plan, implement, develop, or operate these projects.

The moneys in this fund may be supplemented by other funds available for or appropriated by the legislature for the same purposes. In addition to such moneys, this fund, with the approval of the governor, may be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000. [Moneys transferred to] In addition, moneys of this fund shall be made available with the prior written approval of the governor for offsite improvements and development necessary to serve present and future occupants of Hawaiian home lands; for improvements, additions, and repairs to all assets owned or leased by the department excluding structures or improvements that the department is obligated to acquire under section 209 of this Act; for engineering, architectural, and planning services to maintain and develop properties; for such consultant services as may be contracted for under this Act; for purchase or lease of necessary equipment; for acquisition or lease of real property and interest therein; and for improvements constructed for the benefit of beneficiaries of this Act and not otherwise permitted in the various loan funds[,] or the administration account[, or the operating fund].

- (2) Hawaiian home administration account. The entire receipts derived from any leasing of the available lands defined in section 204 of this Act and transfers from the Hawaiian home [interest] receipts fund shall be deposited into this account. Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into this fund. The moneys in this account shall be expended by the department for salaries and all other administration expenses of the department in conformity with general law applicable to all departments of the State, and no sums shall be expended for structures and other permanent improvements. This account shall be subject to the following conditions and requirements:

- (A) The department shall, when required by the governor but not later than November 15 preceding each regular session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next fiscal period in the manner required by general law.
- (B) The department's budget as approved by the governor shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.
- (C) Upon legislative approval of a budget, the amount appropriated shall be made available to the department. If no budget is approved by the legislature prior to its adjournment, sums accruing to this account shall not be expended for any other purpose but shall remain available for future use. Any

amount in this account which is in excess of the amount approved by the legislature or made available for the fiscal period may be transferred to the Hawaiian home [development] operating fund.

- [(3)] The Hawaiian loan guarantee fund. There may be created a fund to support the guarantee of repayment of loans made by government agencies or private lending institutions to those holding leases or licenses issued under section 207 of this Act. The department's guarantee of repayment shall be adequate security for a loan under any state law prescribing the nature, amount, or form of security or requiring security upon which loans may be made.
- [(4)] (3) Hawaiian home [interest] receipts fund. All interest moneys from loans or investments received by the department from any fund except as provided for in each respective fund, shall be deposited into this fund. At the end of each quarter, all moneys in this fund [shall] may be transferred to [the Hawaiian home development fund,] the Hawaiian home operating fund, the Hawaiian home administration account, the Hawaiian home trust fund, and any loan fund in accordance with rules adopted by the department. [Moneys transferred to the Hawaiian home administration account shall be used to fund salaries and other administrative expenses related to loan services and delinquent collection activities.
- (5) Borrowed money fund. The department may borrow from government agencies or private lending institutions and deposit borrowed moneys into this fund to be used for the purpose enumerated in section 214 of this Act. Installments of principal and that part of the interest equal to the interest charged to the department by the lender paid by the lessees upon loans made to them from this fund shall be deposited into this fund; any additional interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home interest fund.
- [(6)] (4) Hawaiian home trust fund. All moneys deposited into this fund shall be available for transfers into any other fund or account authorized by the Act or for any public purpose deemed by the commission to further the purposes of the Act. Public purpose, as used herein, includes the formation of an account within the Hawaiian home trust fund as a reserve for loans insured or guaranteed by the Federal Housing Administration, Veterans Administration, or any other federal agency and their respective successors and assigns, which are authorized to insure or guarantee loans. Notwithstanding any other law to the contrary, the department is expressly authorized to deposit the reserve for loans in any duly organized bank in the State or elsewhere in the United States with automatic fund transfer capabilities and at such reserve amounts as shall be reasonably required by the federal agencies as a condition for participation in their respective insurance or guarantee programs.
- [(7)] Hawaiian home education fund. Moneys transferred to this fund may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such

educational projects as shall be developed and directed by the department of education and department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of lessees, the funds to be used primarily at the preschool and elementary grade levels.

(8)] (5) Native Hawaiian rehabilitation fund.

- (A) Pursuant to Article XII, Section 1, of the State Constitution, thirty per cent of the state receipts, derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include, but not be limited to, the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.
- (B) Any payment of principal, interest, or other earnings arising out of the loan or investment of money from this¹ fund shall be credited to and deposited into this fund.
- (C) Sections 214, 215, 216, and 217 of this Act shall not apply to administration of this fund. The department is authorized to adopt rules necessary to administer and carry out the purposes of this fund."

SECTION 3. Section 214, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

"§214. **Purposes of loans; authorized [] actions[]**. (a) The department may make loans from revolving funds to any lessee or native Hawaiian to whom, or any cooperative association to which, a lease has been issued under section 207(a) of this Act or a license has been issued under section [207] 207(c)(1)(B) of this Act. Such loans may be made for the following purposes:

- (1) The repair or maintenance or purchase or erection of dwellings on any tract, and the undertaking of other permanent improvements thereon;
- (2) The purchase of livestock, swine, poultry, fowl, aquaculture stock, and farm and aquaculture equipment;
- (3) Otherwise assisting in the development of tracts and of farm, ranch, and aquaculture operations[;], including:
 - (A) The initial and on-going development, improvement, operation, and expansion of homestead farms, ranches, and aquaculture enterprises;
 - (B) The liquidation of indebtedness incurred for any of the foregoing purposes relating to farm loans aged less than five years;
 - (C) The payment of normal and reasonable living expenses of a full-time farmer;
 - (D) The planning, layout, and installation of soil and water conservation practices; and
 - (E) Providing relief and rehabilitation to homestead farmers and ranchers due to damage by rain and wind storms, droughts, tidal wave, earthquake, volcanic eruption, and other natural catastrophes, and for livestock disease, epidemics, crop

blights, and serious effects of prolonged shipping and dock strikes;

- (4) The cost of breaking up, planting, and cultivating land and harvesting crops, the cost of excavating or constructing aquaculture ponds and tanks, the purchase of seeds, fertilizers, feeds, insecticides, medicines, and chemicals for disease and pest control for animals, fish, shellfish, and crops, and the related supplies required for farm, ranch, and aquaculture operations, the erection of fences and other permanent improvements for farm, ranch, and aquaculture purposes and the expense of marketing; and
 - (5) To assist [lessees] licensees in the operation or erection of theaters, garages, service stations, markets, stores, and other mercantile establishments, all of which shall be owned by [lessees of the department] native Hawaiians or by organizations formed and controlled by [the lessees.] native Hawaiians.
- (b) In addition the department may:
- (1) Use moneys in the [development and] Hawaiian home operating [funds,] fund, with the prior approval of the governor, to match federal, state, or county funds available for the same purposes and to that end, enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure, and do and perform such other acts and things, as may be necessary or required, as a condition to securing matching funds for such projects or works;
 - (2) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof, up to a maximum of \$50,000 to lessees in accordance with section 215;
 - (3) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof to a cooperative association in accordance with section 215;
 - (4) Permit and approve loans made to lessees by government agencies or private lending institutions, where the department assures the payment of such loans; provided that upon receipt of notice of default in the payment of such assured loans, the department may, upon failure of the lessee to cure the default within sixty days, cancel the lease and pay the outstanding balance in full or may permit the new lessee to assume the outstanding debt; and provided further that the department shall reserve the following rights: the right of succession to the lessee's interest and assumption of the contract of loan; the right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights enumerated at the time of assurance necessary to protect the monetary and other interests of the department;
 - (5) Secure, pledge, or otherwise guarantee the repayment of moneys borrowed by the department from government agencies or private lending institutions and pay the interim interest or advances required for loans; provided that the State's liability, contingent or otherwise, either on moneys borrowed by the department or on departmental guarantees of loans made to lessees under this paragraph and paragraphs (2), (3), and (4) of this section, shall at no time exceed \$21,000,000; the department's guarantee of repayment shall be adequate security for a loan under any state law

prescribing the nature, amount, or form of security or requiring security upon which loans may be made;

- (6) Use available loan fund moneys or other funds specifically available for such purposes as cash guarantees when required by lending agencies;
- (7) Exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by government agencies or by private lending institutions to lessees the repayment of which is assured by the department. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment, or otherwise underwriting, of any loan, the protecting of security interest, and after foreclosures, the repairing, renovating, or modernization and sale of property covered by the loan and mortgage."

SECTION 4. Section 220, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

"§220. [] Development projects; appropriations by legislature[:]; bonds issued by legislature.[] (a) The department is authorized directly to undertake and carry on general water and other development projects in respect to Hawaiian home lands and to undertake other activities having to do with the economic and social welfare of the homesteaders, including the authority to derive revenue from the sale, to others than homesteaders, of water and other products of such projects or activities, or from the enjoyment thereof by others than homesteaders, where such sale of products or enjoyment of projects or activities by others does not interfere with the proper performance of the duties of the department[:]; provided[, however,] that roads through or over Hawaiian home lands, other than federal-aid highways and roads, shall be maintained by the county or city and county in which [said] the particular road or roads to be maintained are located.

(b) The legislature is authorized to appropriate out of the treasury of the State such sums as it deems necessary to augment the [Hawaiian home-loan fund, the Hawaiian home-development fund, the Hawaiian home-operating fund, and the Hawaiian home-administration account,] funds of the department and to provide the department with funds sufficient to execute and carry on such projects and activities. The legislature is further authorized to issue bonds to the extent required to yield the amount of any sums so appropriated for the payment of which, if issued for revenue-producing improvements, the department shall provide, as set forth in section [213(d).] 213.

(c) To enable the construction of irrigation projects which will service Hawaiian home lands, either exclusively or in conjunction with other lands served by such projects, the department is authorized, with the approval of the governor, to [grant]:

- (1) Grant to the [] board of land and natural resources[]], or to any other agency of the government of the State or the United States undertaking the construction and operation of such irrigation projects, licenses for rights-of-way for pipelines, tunnels, ditches, flumes, and other water conveying facilities, reservoirs, and other storage facilities, and for the development and use of water appurtenant to Hawaiian home lands; [to exchange]

- (2) Exchange available lands for public lands, as provided in section [204(4)] 204 of this [title,] Act, for sites for reservoirs and subsurface water development wells and shafts; [to request]
- (3) Request any such irrigation agency to organize irrigation projects for Hawaiian home lands and to transfer irrigation facilities constructed by the department to any such irrigation agency; [to agree]
- (4) Agree to pay the tolls and assessments made against community pastures for irrigation water supplied to such pastures; and [to agree]
- (5) Agree to pay the costs of construction of projects constructed for Hawaiian home lands at the request of the department, in the event the assessments paid by the homesteaders upon lands are not sufficient to pay such costs[: Provided,];

provided that licenses for rights-of-way for the purposes and in the manner specified in this section may be granted for a term of years longer than is required for amortization of the costs of the project or projects requiring use of such rights-of-way only if authority for such longer grant is approved by an act of the legislature of the State. Such payments shall be made from, and be a charge against the Hawaiian [home-operating] home operating fund."

SECTION 5. Section 222, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (a) to read as follows:

"(a) The department shall adopt rules and regulations and policies in accordance with [the provisions of] chapter 91, Hawaii Revised Statutes. The department may make such expenditures as are necessary for the efficient execution of the functions vested in the department [[]by[]] this Act. All expenditures of the department[, as herein provided out of the Hawaiian home-administration account, the Hawaiian home-development fund, or the Hawaiian home-operating fund,] and all [monies] moneys necessary for loans made by the department, in accordance with the provisions of this Act, [from the Hawaiian home-loan fund,] shall be allowed and paid upon the presentation of itemized vouchers [therefor,] approved by the chairman of the commission[.] or the chairman's designated representative. The department shall make an annual report to the legislature of the State upon the first day of each regular session [thereof] and such special reports as the legislature may from time to time require. The chairman and members of the commission shall give bond as required by law. The sureties upon the bond and the conditions thereof shall be approved annually by the governor."

SECTION 6. The state comptroller and the chairman of the Hawaiian homes commission are authorized to take such actions as may be necessary to implement the funding structure provided for by this Act, including the following actions:

- (1) Transfer the June 30, 1986, balances of the Hawaiian home replacement loan fund, Hawaiian home repair loan fund, Hawaiian home farm loan fund, Hawaiian loan guarantee fund, and the borrowed money fund to the Hawaiian home general loan fund;
- (2) Transfer the June 30, 1986, balances of the Hawaiian home development fund to the Hawaiian home operating fund; and
- (3) Transfer the June 30, 1986, balances of the Hawaiian home interest fund and the Hawaiian home education fund to the Hawaiian home receipts fund.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. The provisions of the amendments made by this Act to the Hawaiian Homes Commission Act, 1920, as amended, are declared to be severable, and if any section, sentence, clause, or phrase, or the application thereof to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect, then that portion only shall take effect upon the granting of consent by the United States and effectiveness of the remainder of these amendments or the application thereof shall not be affected.

SECTION 9. This Act shall take effect on July 1, 1986.

(Approved May 29, 1986.)

Note

1. Prior to amendment, "the" appeared here.

ACT 250

H.B. NO. 105

A Bill for an Act Relating to Names.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 574-5, Hawaii Revised Statutes, is amended by amending subsections (a) and (e) to read as follows:

1. Subsection (a) is amended to read:

"(a) It shall be unlawful to change any name adopted or conferred under this chapter, except:

- (1) Upon an order of the lieutenant governor;
- (2) By a final order, decree, or judgment of the family court issued as follows:
 - (A) When in an adoption proceeding a change of name of the person to be adopted is requested and the court includes the change of name in the adoption decree; [or]
 - (B) When in a divorce proceeding either party to the proceeding requests to resume the surname used by him or by her prior to the marriage or a surname declared and used during any prior marriage and the court includes the change of name in the divorce decree; or
 - (C) When in a proceeding for a change of name of a legitimate or legitimated minor initiated by one parent, the family court, upon proof that the parent initiating the name change has made all reasonable efforts to locate and notify the other parent of the name change proceeding but has not been able to locate, notify, or elicit a response from the other parent, and after an appropriate hearing, orders a change of name determined to be in the best interests of the minor;
- (3) Upon marriage pursuant to section 574-1; [or]
- (4) Upon legitimation pursuant to section 338-21[.]; or
- (5) By an order or decree of any court of competent jurisdiction within any state of the United States, the District of Columbia,

the Commonwealth of Puerto Rico, or any territory or possession of the United States, changing the name of a person born in this State."

2. Subsection (e) is amended to read:

"(e) When the petition is accompanied by an affidavit executed by a prosecuting attorney of this State, the affidavit shall show that for the protection of the person desirous of making a change of name, the following actions shall not be necessary:

- (1) Publication in a newspaper of general circulation in the State; and
- (2) Recordation in the bureau of conveyances[; and
- (3) Reporting to the registrar of births].

The petition, affidavit, and order shall be kept confidential."

SECTION 2. Section 574-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In all cases of change of name by order of the lieutenant governor, except as otherwise provided by law, the order shall be [filed as follows:

- (1) For persons born in this State the order shall be both recorded in the bureau of conveyances and reported to the state registrar within sixty days after the signing of the order, and
- (2) For persons born outside of this State, the order shall be recorded in the bureau of conveyances within sixty days after the signing of the order.] recorded in the bureau of conveyances within sixty days after the signing of the order."

SECTION 3. Section 571-11, Hawaii Revised Statutes, is amended to read as follows:

"§571-11 Jurisdiction; children. Except as otherwise provided in this chapter, the court shall have exclusive original jurisdiction in proceedings:

- (1) Concerning any person who is alleged to have committed an act prior to achieving eighteen years of age which would constitute a violation or attempted violation of any federal, state, or local law or municipal ordinance. Regardless of where the violation occurred, jurisdiction may be taken by the court of the circuit where the person resides, is living, or is found, or in which the offense is alleged to have occurred.
- (2) Concerning any child living or found within the circuit:
 - (A) Who is neglected as to or deprived of educational services because of the failure of any person or agency to exercise that degree of care for which it is legally responsible;
 - (B) Who is beyond the control of the child's parent or other custodian or whose behavior is injurious to the child's own or others' welfare;
 - (C) Who is neither attending school nor receiving educational services required by law whether through the child's own misbehavior or nonattendance or otherwise; or
 - (D) Who is in violation or¹ curfew.
- (3) To determine the custody of any child or appoint a guardian of the person of any child.
- (4) For the adoption of a person under chapter 578.
- (5) For the termination of parental rights under sections 571-61 to 571-63.

- (6) For judicial consent to the marriage, employment, or enlistment of a child, when such consent is required by law.
- (7) For the treatment or commitment of a mentally defective, mentally retarded, or mentally ill child.
- (8) Under the Interstate Compact on Juveniles under chapter 852.
- (9) For the protection of any child under chapter 587.
- (10) For a change of name as provided in section 574(a)(2)(C)¹."

SECTION 3.¹ Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4.¹ This Act shall take effect upon its approval.

(Approved May 29, 1986.)

Note

- 1. So in original.

ACT 251

H.B. NO. 381

A Bill for an Act Relating to Jurors' Compensation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 612-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each juror shall be paid [\$20] \$30 for each day of actual attendance at court. In addition, each juror shall be paid 20 cents for each mile actually and necessarily traveled in going to and from court. A person who appears at the time for which that person is summoned to court for jury duty may be allowed the mileage fee although the person, upon that person's request, is subsequently excused [for] or¹ exempted from jury service."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$619,500, or so much thereof as may be necessary for fiscal year 1986-1987, to implement the provisions of this Act.

SECTION 3. The sum appropriated shall be expended by the judiciary for the purposes of this Act.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1986.

(Approved May 29, 1986.)

Note

- 1. So in original.

ACT 252

H.B. NO. 989

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 171-22, Hawaii Revised Statutes, is amended to read as follows:

“§171-22 Consent to mortgage. Whenever under this chapter or under any lease, license, permit, or other instrument issued by the board of land and natural resources, consent of the State is required as a condition precedent to the mortgage of, or the creation of a security interest in public land, the chairperson of the board may, upon due application, grant the consent, and if the mortgage or security interest is to a recognized lending institution authorized to do business as a lending institution in either the State or elsewhere in the United States, the consent may extend to foreclosure and sale at the foreclosure to any purchaser, including the mortgagee, without regard to whether or not the purchaser is qualified under this chapter to lease, own, or otherwise acquire and hold the land or any interest therein. The interest of the mortgagee or holder shall be freely assignable. The term “holder” includes an insurer or guarantor of the obligation or condition of the mortgage, including the Federal Housing Administration, the Federal National Mortgage Association, the Veterans Administration, the Small Business Administration, Farmers Home Administration, or any other federal agency and their respective successors and assigns or any lending institution authorized to do business in the State or elsewhere in the United States; provided[,] that the consent to mortgage to a nongovernmental holder shall not confer any greater rights or powers in the holder than those which would be required by any of the aforementioned federal agencies.

Notwithstanding any provision in this chapter to the contrary, in leases or sales for residential purposes, the board may waive or modify any restrictions of the lease or sale or any restrictions contained in any such lease or sale if the waiver or modification is necessary to enable any of the aforementioned federal agencies or any lending institution authorized to do business in the State or elsewhere in the United States to participate in any loan secured by a mortgage on the land or the leasehold interest; provided[,] any such waiver or modification shall not confer any greater rights or powers in the holder than those which would be required by the Federal Housing Administration or the Farmers Home Administration.”

SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§171- Amendment of lease for commercial or industrial use. The board of land and natural resources may amend the specific use or uses contained in a lease for commercial or industrial use of public land to another or an additional specific commercial or industrial use or uses upon:

- (1) The application of the lessee;
- (2) Consent of each holder of record having a security interest in any improvements made by the lessee to the leased public land;
- (3) A finding by the board that the amended use or uses is in the public interest; and
- (4) Agreement by the lessee that the lessee, commencing from the effective date of the amended use or uses, shall pay a revised annual rent equal to the annual fair market rental value of the land based on the amended use or uses. The annual fair market value of the land shall be determined and set by the board.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 253

H.B. NO. 1694-86

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER
CAPTIVE INSURANCE COMPANIES**

§ -1 Definitions. As used in this chapter:

"Affiliated company" means any company in the same corporate system as a parent or a member organization by virtue of common ownership, control, operation, or management.

"Association" means any legal association of individuals, corporations, partnerships, or associations, except labor organizations, that has been in continuous existence for at least one year, the member organizations of which collectively:

- (1) Own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer; or
- (2) Have complete voting control over an association captive insurance company incorporated as a mutual insurer.

"Association captive insurance company" means any company that insures risks of the member organizations of the association, and their affiliated companies.

"Captive insurance company" means any pure captive insurance company or association captive insurance company formed or licensed under this chapter.

"Commissioner" means the insurance commissioner.

"Member organization" means any individual, corporation, partnership, or association that belongs to an association.

"Parent" means a corporation, partnership, or individual that directly or indirectly owns, controls, or holds with power to vote more than fifty per cent of the outstanding voting securities of a pure captive insurance company.

"Pure captive insurance company" means any company that insures risks of its parent and affiliated companies.

§ -2 Licensing; authority. (a) Any captive insurance company, when permitted by its articles of association or charter, may apply to the commissioner for a license to do any and all insurance set forth in subsection (g); provided that:

- (1) No pure captive insurance company may insure any risks other than those of its parent and affiliated companies;

- (2) No association captive insurance company may insure any risks other than those of the member organizations of its association, and their affiliated companies;
 - (3) No captive insurance company may provide personal motor vehicle or homeowner's insurance coverage or any component thereof; and
 - (4) No captive insurance company may accept or cede reinsurance except as provided in section -11.
- (b) No captive insurance company shall do any insurance business in this State unless:
- (1) It first obtains from the commissioner a license authorizing it to do insurance business in this State;
 - (2) Its board of directors holds at least one meeting each year in this State;
 - (3) It maintains its principal place of business in this State; and
 - (4) It appoints a resident registered broker or agent to accept service of process and to otherwise act on its behalf in this State. Whenever the registered broker or agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the director of commerce and consumer affairs shall be an agent of such captive insurance company upon whom any process, notice, or demand may be served.
- (c) Before receiving a license, a captive insurance company shall file with the commissioner a certified copy of its charter and bylaws, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the commissioner.
- (d) In addition to the information required by subsection (c), each applicant captive insurance company shall file with the commissioner evidence of the following:
- (1) The amount and liquidity of its assets relative to the risks to be assumed;
 - (2) The adequacy of the expertise, experience, and character of the person or persons who will manage it;
 - (3) The overall soundness of its plan of operation;
 - (4) The adequacy of the loss prevention programs of its parent or member organizations as applicable; and
 - (5) Any other factors deemed relevant by the commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.
- (e) Each captive insurance company shall pay to the commissioner a nonrefundable fee of \$1,000 for examining, investigating, and processing its application for license. In addition, it shall pay a license fee for the year of registration and a renewal fee for each year thereafter of \$300.
- (f) If the commissioner is satisfied that the documents and statements filed by the captive insurance company complies with this chapter, the commissioner may grant a license authorizing it to do insurance business in this State until April 1 thereafter, which license may be renewed.
- (g) A captive insurance company may engage in the business of any of the following types of insurance:
- (1) All casualty insurance;
 - (2) Marine and transportation insurance;
 - (3) Marine protection and indemnity insurance, which includes insurance against, or against legal liability of the insured for loss,

damage, or expense arising out of, or incident to, the ownership, operation, chartering, maintenance, use, repair, or construction of a vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death, or for loss of or damage to the property of another person;

- (4) Wet marine and transportation insurance, which is that part of marine and transportation insurance that includes only:
 - (A) Insurance upon vessels, crafts, hulls, and of interests therein or with relation thereto;
 - (B) Insurance of marine builder's risks, marine war risks and contracts, or marine protection and indemnity insurance;
 - (C) Insurance of freights and disbursements pertaining to a subject of insurance; and
 - (D) Insurance of personal property and interests therein, in the course of exportation from or importation into any country, and in the course of transportation coastwise or on inland waters, including transportation by land, water, or air from point of origin to final destination, in respect to, appertaining to, or in connection with, any and all risks or perils of navigation, transit, or transportation, and while being prepared for and while awaiting shipment, and during delays, storage, transshipment, or reshipment incident thereto;
- (5) Property insurance;
- (6) Surety insurance; and
- (7) Title insurance.

§ -3 **Names of companies.** No captive insurance company shall adopt a name that is the same, deceptively similar, or likely to be confused with or mistaken for any other existing business name registered in the State.

§ -4 **Minimum capital; letter of credit, security.** (a) No pure captive insurance company or association captive insurance company incorporated as a stock insurer shall be issued a license unless it shall possess and thereafter maintain unimpaired paid-in capital of an amount established and deemed appropriate by the commissioner. The amount for pure captive insurance companies may differ from the amount for association captive insurance companies.

(b) The capital may be in the form of cash or in the form of an irrevocable letter of credit issued by a bank chartered by this State or a member bank of the Federal Reserve System or other security approved by the commissioner.

§ -5 **Minimum surplus; letter of credit, security.** (a) No captive insurance company shall be issued a license unless it shall possess and thereafter maintain a free surplus of an amount established and deemed appropriate by the commissioner. The amount for pure captive insurance companies may differ from the amount for association captive insurance companies. The amount for association captive insurance companies incorporated as stock insurers may differ from the amount for association captive insurers incorporated as mutual insurers.

(b) The surplus may be in the form of cash or in the form of an irrevocable letter of credit issued by a bank chartered by this State or member bank of the Federal Reserve System or other security approved by the commissioner.

§ -6 **Formation of captive insurance companies in this State.** (a) A pure captive insurance company shall be incorporated as a stock insurer with its capital divided into shares and held by the stockholders.

(b) An association captive insurance company may be incorporated:

(1) As a stock insurer with its capital divided into shares and held by the stockholders; or

(2) As a mutual insurer without capital stock, the governing body of which is elected by the member organizations of its association.

(c) A captive insurance company shall have not less than three incorporators of whom not less than two shall be residents of this State.

(d) Before the articles of incorporation are transmitted to the department of commerce and consumer affairs, the incorporators shall petition the commissioner to issue a certificate setting forth the commissioner's finding that the establishment and maintenance of the proposed corporation will promote the general good of the State. In arriving at such a finding, the commissioner shall consider:

(1) The character, reputation, financial standing, and purposes of the incorporators;

(2) The character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors; and

(3) Such other aspects as the commissioner deems advisable.

(e) The articles of incorporation, certificate, and the organization fee shall be transmitted to the department of commerce and consumer affairs, which shall record both the articles of incorporation and the certificate.

(f) The capital stock of a captive insurance company incorporated as a stock insurer shall be issued at not less than par value.

(g) At least one of the members of the board of directors of a captive insurance company incorporated in this State shall be a resident of this State.

(h) Captive insurance companies formed under this chapter shall have the privileges and be subject to the general corporation laws as well as this chapter. In the event of conflict between the general corporation laws and this chapter, the latter shall control.

§ -7 **Financial statements and other reports.** (a) Each captive insurance company shall submit to the commissioner a statement of financial condition audited by an independent certified public accountant on or before the last day of the sixth month following the end of the company's fiscal year. The financial statement shall be on a form prescribed by the commissioner and shall include, but not be limited to, actuarially appropriate reserves for:

(1) Known claims and expenses associated therewith;

(2) Claims incurred but not reported and expenses associated therewith;

(3) Unearned premiums; and

(4) Bad debts, reserves for which shall be shown as liabilities.

An actuarial opinion regarding reserves for known claims and expenses associated therewith and claims incurred but not reported and expenses associated therewith shall be included in the audited financial statement. The actuarial opinion shall be given by a member of the American Academy of Actuaries or other qualified loss reserve specialist as defined in the annual statement adopted by the National Association of Insurance Commissioners.

(b) The commissioner may prescribe the format and frequency of other reports which may include, but shall not be limited to, summary loss reports and quarterly financial statements.

§ -8 **Examinations and investigations.** At least once a year, and whenever the commissioner determines it to be prudent, the commissioner, or a designated agent, shall visit each captive insurance company and thoroughly inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with this chapter. The commissioner, upon application, may enlarge the one-year period to three years; provided the captive insurance company is subject to a comprehensive annual audit during that period of a scope satisfactory to the commissioner by independent auditors approved by the commissioner. The expenses and charges of the examination shall be paid to the State by the company or companies examined and the director of finance shall issue warrants for the proper charges incurred in all examinations.

§ -9 **Grounds and procedures for suspension or revocation of license.**
(a) The license of a captive insurance company to do business in this State may be suspended or revoked by the commissioner for any of the following reasons:

- (1) Insolvency or impairment of capital or surplus;
- (2) Failure to meet the requirements of section -4 or -5;
- (3) Refusal or failure to submit an annual report, as required by section -7 or any other report or statement required by law or by lawful order of the commissioner;
- (4) Failure to comply with the provisions of its own charter or bylaws;
- (5) Failure to submit to examination or any legal obligation relative thereto, as required by section -8;
- (6) Refusal or failure to pay the cost of examination as required by section -8;
- (7) Use of methods that, although not otherwise specifically prohibited by law, nevertheless render its operation detrimental or its condition unsound with respect to the public or to its policyholders;
- (8) Failure to maintain actuarially appropriate loss reserves as determined by the commissioner; provided that the commissioner shall provide at least one warning to the captive insurance company to correct the problem prior to suspending or revoking the license; and
- (9) Failure otherwise to comply with the laws of this State.

(b) If the commissioner, upon examination, hearing, or other evidence, finds that any captive insurance company has committed any of the acts specified in subsection (a), the commissioner may suspend or revoke the license if the commissioner deems it in the best interest of the public and the policyholders of such captive insurance company, notwithstanding any other law.

§ -10 **Legal investments.** Each pure captive insurance company shall be subject to the restrictions on allowable investments provided under sections 431-281 to 431-312.

§ -11 **Reinsurance.** (a) Any captive insurance company may provide reinsurance, as provided in section 431-109, on risks ceded by any other insurer.

(b) Any captive insurance company may take credit for reserves on risks ceded to a reinsurer; provided that no captive insurance company shall reinsure a risk or part thereof with an insurer unless the insurer has been approved by the commissioner and, prior to approval, has:

- (1) Filed with the commissioner a power of attorney executed by reinsurer proposing to accept reinsurance, in a form approved by the commissioner, authorizing the director of commerce and consumer affairs to accept service of process on behalf of a reinsurer. The power of attorney shall be and remain effective as to all cases of reinsurance by a reinsurer;
- (2) Paid to the commissioner an initial fee of \$100 and thereafter an annual fee of \$100 payable before April 1 of each year;
- (3) Filed a certified copy of its charter and bylaws with the commissioner; and
- (4) Filed a statement under oath of its president and secretary showing its financial condition and any other statements and materials required by the commissioner.

§ -12 **Rating organizations; memberships.** No captive insurance company shall be required to join a rating organization.

§ -13 **Exemption from compulsory associations.** No captive insurance company shall be permitted to join or contribute financially to any plan, pool, association, or guaranty or insolvency fund in this State, nor shall any captive insurance company, or its insured, or its parent or any affiliated company, or any member organization of its association, receive any benefit from any such plan, pool, association, or guaranty or insolvency fund for claims arising out of the operations of such captive insurance company.

§ -14 **Rules.** The commissioner may adopt rules pursuant to chapter 91 to implement this chapter.

§ -15 **Laws applicable.** No insurance laws of this State, other than those contained in this chapter, or contained in specific references contained in this chapter, shall apply to captive insurance companies."

SECTION 2. The insurance commissioner shall submit to the legislature proposed legislation to amend this Act, including proposed legislation concerning the merger, liquidation, or rehabilitation of insolvent captive insurance companies, if deemed necessary to provide further protection for persons insured by captive insurance companies and persons to whom the insureds may be liable. The proposed legislation shall be submitted prior to the Regular Session of 1987.

SECTION 3. This Act shall take effect upon its approval; except that section 1 shall take effect on July 1, 1987.

(Approved May 29, 1986.)

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The legislature finds that the sugar industry is the largest agricultural industry in Hawaii and is a vital component of the State's economic base. The legislature further finds that the adverse effects of losing this industry would be catastrophic to the State. The legislature also finds that the sugar industry continues to experience adverse economic conditions, and it is in the public interest to continue the measures enacted in prior years to assist and save the sugar industry.

The purpose of this Act is to provide funds for research performed by the industry and thereby offset the costs to the industry.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000, or so much thereof as may be necessary for fiscal year 1986-1987, for sugar research and development; provided that \$250,000 shall be used for research and development of alternate crops and by-products; and provided further that no funds shall be made available under this Act unless the Hawaiian Sugar Planters' Association provides a dollar-for-dollar match of funds for the purpose for which this sum is appropriated.

SECTION 3. The sum appropriated shall be expended by the governor's agriculture coordinating committee for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1986.

(Approved May 29, 1986.)

ACT 255

H.B. NO. 1706-86

A Bill for an Act Making an Appropriation for a Hazardous Waste Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$180,000, or so much thereof as may be necessary for fiscal year 1986-1987, to continue the development and implementation of a state hazardous waste program to protect human health and the environment from the mismanagement of toxic and hazardous chemical wastes.

SECTION 2. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved May 29, 1986.)

ACT 256

H.B. NO. 1708-86

A Bill for an Act Relating to a Statewide Kapu System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that if the State is to provide its citizens with the benefits of our ocean resources on a continual basis, preventive measures rather than reactive measures must be taken to avoid

depleting these valuable resources. The legislature finds that a system that permits the opening and closing of certain areas to fishing on an alternating basis can provide an effective means of controlling indiscriminate and excessive fishing. The legislature further finds that the department of land and natural resources has successfully tested such a system with the establishment of the Waikiki-Diamond Head Shoreline Fisheries Management Area and that an expansion of such a management system throughout the State is appropriate at this time.

The purpose of this Act is to establish a statewide kapu system to protect and manage Hawaii's ocean resources by appropriating funds for this purpose.

In establishing and implementing a statewide kapu system for ocean resources, it is the intent of the legislature that the department of land and natural resources include as an additional provision of the system a permanent ban on all net fishing within the harbors of the State which are under the jurisdiction of the state department of transportation, with the exception of the netting of Nehu or bait fish.

SECTION 2. This Act shall not diminish traditional and customary native Hawaiian rights. The board of land and natural resources shall preserve these rights through the adoption of rules and regulations in administering the provisions of this chapter.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1986-1987, to carry out the purposes of this Act. The sum appropriated shall be expended by the department of land and natural resources.

SECTION 4. This Act shall take effect on July 1, 1986.

(Approved May 29, 1986.)

ACT 257

H.B. NO. 1763-86

A Bill for an Act Relating to Capital Loans.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 210-6, Hawaii Revised Statutes, is amended to read as follows:

"§210-6 Direct loans, terms, and restrictions. The department of planning and economic development may make loans to small business concerns for the financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials, or for the supplying of working capital. The loans may be made in conjunction with loans made by other financial institutions, including the SBA. Where the loans made by the department are secured, the security may be subordinated to the loans made by other financial institutions, when the subordination is required in order to obtain loans from such institutions. The necessity for and the extent of security required in any loan shall be determined by the director of planning and economic development.

The foregoing powers shall be subject, however, to the following restrictions and limitations:

- (1) No loans shall be granted unless financial assistance is not available to the applicant.
- (2) The amount of the loan or loans to any one applicant at any one time shall in no case exceed a total of \$250,000.
- (3) No loan shall be made for a term exceeding twenty years.
- (4) Each loan shall bear simple interest at the rate of seven and one half per cent a year.
- (5) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of five years.
- (6) The payment of interest on the principal of a loan may be deferred by the director, but in no event shall interest payments be deferred in excess of two years from the date of issuance of the loan."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 258

H.B. NO. 1870-86

A Bill for an Act Relating to Coastal Zone Management.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section¹ 205A, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

"PART III. SHORELINE SETBACKS

§205A-41 Definitions. As used in this part, unless the context otherwise requires:

"Authority" means the authority as defined in part II.

"Department" means the planning department of each county.

"Shoreline area" means all of the land area between the shoreline and the shoreline setback line.

"Shoreline setback line" means that line established in this part or by the county running inland from and parallel to the shoreline at a horizontal plane.

§205A-42 Determination of the shoreline. The board of land and natural resources shall adopt rules pursuant to chapter 91 prescribing procedures for determining a shoreline and appeals of shoreline determinations; provided that no determination of a shoreline shall be valid for a period longer than twelve months, except where the shoreline is fixed by man-made structures which have been approved by appropriate government agencies and for which engineering drawings exist to locate the interface between the shoreline and the structure.

§205A-43 Establishment of shoreline setbacks and duties and powers of the department. Setbacks along shorelines are established of not less than twenty feet and not more than forty feet inland from the shoreline. The department shall adopt rules within a period of one year after June 22, 1970,

pursuant to chapter 91, and shall enforce the shoreline setbacks and rules pertaining thereto.

§205A-44 Prohibitions. (a) The mining or taking of sand, coral, rocks, soil, or other beach or marine deposits from the shoreline area, or within 1,000 feet seaward from the shoreline, or in water of 30 feet or less in depth in the territorial sea, is prohibited with the following exceptions:

- (1) The taking from a public beach of such materials for reasonable, personal, noncommercial use;
- (2) Where the mining or taking of sand by the State or county is for the replenishment of sand on public beaches at Hilo Bay, Waiki, Ala Moana, and Kailua beaches; provided that for the purpose of this paragraph an environmental impact statement for the proposed project shall be accepted pursuant to chapter 343, a finding shall be made by the proposing state or county agency that the proposed project is in the public interest and will not have any adverse significant social, economic, or environmental impact, and both a public informational meeting and public hearing shall be held by the proposing state or county agency in the affected community. The public hearing shall be preceded by public notice of the proposed project not less than 30 days before the hearing and published on three separate days in a newspaper of general circulation in the State or county affected by the proposed project. The proposing state or county agency shall also notify in writing the owners or lessees of adjoining, overlapping, or affected property of the proposed project;
- (3) The clearing of sand from existing drainage pipes and canals and from the mouths of streams; provided that the sand shall be placed on adjacent beaches unless such placement would result in significant turbidity.

(b) Except as otherwise provided in this part no structure or any portion thereof, including but not limited to seawalls, groins, and revetments, shall be permitted within the shoreline area; provided that any lawful nonconforming structure existing on June 22, 1970 shall be permitted; provided further that any structure which is necessary for safety reasons or to protect the property from erosion or wave damages shall be permitted. A structure not conforming to this section but for which a building permit application has been filed on or before June 22, 1970, shall also be permitted as a nonconforming structure, subject to the ordinances and regulations of the particular county.

(c) Any nonconforming structure, including but not limited to residential dwellings, agricultural structures, seawalls, groins, and revetments may be replaced or reconstructed within the shoreline area; provided that no nonconforming structure shall be substantially enlarged or changed to another nonconforming use within the shoreline area. If the use of any nonconforming structure is discontinued or held in abeyance for a period of one year, the further continuation of such use shall be prohibited.

§205A-45 Shoreline setback lines established by county. The several counties through ordinances may require that shoreline setback lines be established at a distance greater than that established in this part.

§205A-46 Functions of department. (a) The department shall administer the provisions of this part. It shall review the plans of all applicants who

propose any structure, activity, or facility which otherwise would be prohibited by this part.

The department may require that the plans be supplemented by accurately mapped data showing natural conditions and topography relating to all existing and proposed structures, buildings, and facilities.

The department may also require reasonable changes in the submitted plans in order to obtain optimum compliance practicable with this part.

(b) After reviewing the plans, the department shall transmit the plans with its recommendations to the authority. The authority shall grant a variance for such structure, activity, or facility if, after a hearing pursuant to chapter 91, it finds in writing, based on the record presented either: (1) that such structure, activity, or facility is in the public interest; or (2) that hardship will be caused to the applicant if the proposed structure, activity, or facility is not allowed on that portion of the land within the shoreline area. Any variance granted to the maximum extent practicable shall be subject to such conditions as will cause the structure, activity, or facility to result in a minimum interference with natural shoreline processes and as will provide for safe public shoreline access. The authority shall render written approval or disapproval within forty-five days after the hearing on the applicant's plans, unless such period is extended by written agreement between the authority and the applicant.

§205A-47 Exemptions. Tunnels, canals, basins, and ditches, together with associated structures used by public utilities as the term is defined in section 269-1, wharves, docks, piers, and other harbor and waterfront improvements and any other maritime facility and water sport recreational facilities may be permitted within the shoreline area; provided that the plans are submitted for review and are approved by the authority after a public hearing has been held and that the appropriate state body has found that the proposed structures will result only in a minimum interference with natural shoreline processes; provided further that any such structure constructed by a governmental body shall be exempt from the provisions of this part except as to the requirement that two public hearings shall be held by the governmental body charged with such construction, once when the project is first conceived and again when the project is substantially designed and planned, but prior to the letting of the contract. Repair, strengthening, reinforcement, and maintenance of fishponds, and improvements for aquaculture farms shall be exempt from this part, upon issuance of a permit or waiver of the requirements by the board of land and natural resources.

§205A-48 Conflict of other laws. In case of a conflict between the requirements of any other state law or county ordinance regarding shoreline setback lines, the more restrictive requirements shall apply in furthering the purposes of this part. Nothing contained in this part shall be construed to diminish the jurisdiction of the state department of transportation over wharves, airports, docks, piers, small boat, or other harbors, and any other maritime or water sports recreational facilities to be constructed on state land by the State; provided that such plans are submitted for the review and information of the officer of the respective agency charged with the administration of the county zoning laws, and found not to conflict with any county ordinances, zoning laws, and building code.

§205A-49 Adoption of rules. Each agency charged with carrying out this part shall adopt rules under chapter 91, as necessary, to implement or comply with this part by June 30, 1987."

SECTION 2. Section 205A-1, Hawaii Revised Statutes, is amended by amending the definition of "shoreline" to read:

- "(7) "Shoreline" means the upper reaches of the wash of the waves, other than storm or tidal waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves."

SECTION 3. Part II, Chapter 205, Hawaii Revised Statutes, is repealed.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act does not affect rights, duties, and penalties that were incurred and proceedings that were begun before its effective date. All variances and permits legally granted before the effective date of this Act shall continue in full force and effect after November 30, 1986.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

Note

1. So in original.

ACT 259

H.B. NO. 1891-86

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Finance the Wailua River Hydro Project.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue in one or more series special purpose revenue bonds during the period from March 1, 1986, through February 28, 1991, in a total amount not to exceed \$9,000,000 for the purpose of assisting Island Power Company, Inc., a Hawaii Corporation, in the construction of a hydroelectric powerplant, including a diversion structure, a penstock, two Francis-type turbines, and a 12 kv transmission line. The electrical output of such facility shall be made available for use by members of the general public by sale to Kauai Electric Company. The legislature finds and determines that the activity and facilities of Island Power Company, Inc. constitutes a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 260

H.B. NO. 1898-86

A Bill for an Act Relating to Employment Opportunities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Hawaii is at a crossroads in its history. Sugar and pineapple are declining both in revenues and in number of persons employed. Tourism with federal spending, particularly through the military, have become the main supports of Hawaii's economy. The present direction of federal spending, except for the military, appears to be directed in a continued pattern of reduction of services and monetary grants. Tourism, while a strong industry, is a highly seasonal and economically sensitive industry and tends to create a secondary job market which employs people on a part-time basis.

Thinking toward the future the legislature has realized that Hawaii must enter the high technology age and has established the high technology development corporation and provided for continuing energy projects such as the emerging geothermal industry. The legislature has established objectives and policies for the economic development of the State in sections 226-6 to 226-10, Hawaii Revised Statutes, particularly setting forth potential growth activities in section 226-10, Hawaii Revised Statutes. The legislature has set in place many functional plans for the future of the State. This session the legislature received from the advisory commission on employment and human resources the comprehensive statewide employment plan required by section 202-2, Hawaii Revised Statutes. Over the past five years the legislature has created the office of community services and the statewide transition to work system. In response to federal requirements the legislature has enacted laws on occupational and career information, job training, and dislocated workers among others.

The legislature finds that many of the pieces are in place for Hawaii to go forward with a broadened economy. But, there is a need for a development plan which ties together and coordinates all the component parts of these pieces. There is a great need to: (1) relate human resource development programs to economic development policies; (2) bring greater coordination and unified direction to human resource programming; (3) develop a more focused program of resource generation; and (4) support the development of innovative forms of human-resource-development programming in the State.

It is the purpose of this Act to provide for a study relating to the formulation of human resources development policy that addresses the above-mentioned needs, complements the employment functional plan, and provides the human resources necessary for the economic development of the State.

SECTION 2. The advisory commission on employment and human resources is directed to conduct the study. The commission shall submit a progress report to the legislature twenty days prior to the convening of the 1987 regular session and a final report shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1986-1987, to the advisory commission on employment and human resources for temporary staff or for contracting with private agencies or individuals.

SECTION 4. This Act shall take effect on July 1, 1986.

(Approved May 29, 1986.)

ACT 261

H.B. NO. 1927-86

A Bill for an Act Relating to the Development of a Master Plan to Promote Hawaii as a Sports Center.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The legislature finds that, because of its location in the center of the Pacific Basin and also its year-round temperate climate, Hawaii should be developed into an international sports center. Our State is located in such a position that it may appropriately serve as a site for international athletic performances, competitions, and games. In addition, there are sufficient data to confirm the fact that Hawaii is also a suitable location for the development of a sports training center.

The legislature finds that the development of a master plan is the first step in the process of transforming Hawaii into an international sports center. Therefore, the purpose of this Act is to appropriate funds for the creation of such a master plan for the promotion and development of Hawaii as a sports center. In the development of the master plan the following shall be considered:

- (1) The events and sports which are conducive to the environment, facilities, and interest of the people of the State;
- (2) Athletes who have the potential for competing in particular sports and events, and strategies to encourage those athletes and their coaches to train in Hawaii;
- (3) Development of a list of facilities needed to institute such a program including provision for infrastructure, housing, and meals, for use of training rooms, weight rooms, and locker rooms, for services of trainers and doctors, and for other related purposes;
- (4) Development of agreements with appropriate state agencies, as well as other public and private organizations, for use of their facilities and equipment to provide competitive opportunities, training, and assistance to athletes, giving special attention to matters of liability and insurance;
- (5) Coordination and assistance to public and private organizations in the conduct of sports clinics, meets, and competitive events during which athletes teach, provide demonstrations, or otherwise participate, with due consideration to the eligibility rules of appropriate high school, collegiate, and other amateur organizations;
- (6) Prioritization of those sporting events which include and benefit the children of the State; and

- (7) The assistance of private nonprofit sports clubs for athletes by providing information and advice on organizational rules and practices which will allow for donations to assist athletes, without jeopardizing their eligibility for amateur athletic competition.

Further, the master plan shall identify the estimated costs, determine the usage and anticipated revenues from the operation of the sports center facilities, recommend names of potential operators of the various facilities, and consider any other factors necessary or related to the promotion and development of Hawaii as a sports center.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1986-1987, to carry out the purposes of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the department of planning and economic development.

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved May 29, 1986.)

ACT 262

H.B. NO. 1970-86

A Bill for an Act Relating to Penalties.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-12, Hawaii Revised Statutes, is amended to read as follows:

"§142-12 Penalties. [Any and all persons knowingly and wilfully violating any of the provisions of part I, chapter 142, or assisting in so doing, or who purchase, take, and carry away any animals, fodder, effects, or fittings connected therewith before the same have been discharged by the department of agriculture, or knowingly and wilfully have in their possession any of the same, or impede or refuse to allow the department to perform its duty, for which actions a penalty is not otherwise provided, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.] (a) Any person violating any provision of this chapter or any rule adopted pursuant thereto, for which action a penalty is not otherwise provided, is guilty of a misdemeanor and, upon conviction thereof, shall be punished as follows:

- (1) For the first conviction, by a fine of not more than \$1,000 or by imprisonment of not more than one year, or both.
- (2) For a second conviction within one year of a previous conviction, by a fine of not less than \$500 nor more than \$1,000 or by imprisonment of not more than one year, or both.
- (3) For a third conviction within five years of the first conviction, by a fine of not less than \$1,000 or by imprisonment of one year, or both.
- (b) Any person, carrier, or handler who has been convicted of a violation of this chapter more than three times within a five-year period or whose violation poses a grave or serious health threat to the State's citizens, animal industry, wildlife, or domestic animals, shall be guilty of a class C felony and upon conviction shall be punished as follows:
 - (1) For the first conviction, by a fine of not more than \$5,000 or by imprisonment of not more than five years, or both.

(2) For a second conviction within five years of a previous conviction, by a fine of not less than \$3,000 nor more than \$5,000 or by imprisonment of not more than five years, or both.

(3) For a third or subsequent conviction within five years of the first conviction, by a fine of not less than \$5,000 or by imprisonment of not more than five years, or both.

(c) In addition to the penalties in subsection (a) or (b) and for the first conviction, the department of agriculture may impound, seize, confiscate, destroy, quarantine, sell, auction, or dispose of any animal, animal product, container, crate, or any other item under the jurisdiction of this chapter in the best interest of the State.

(d) Persons found to be in possession of any animal, fodder, fittings, or effects contrary to this chapter shall be found guilty and upon conviction shall be punished in accordance with this section."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 263

H.B. NO. 1972-86

A Bill for an Act Relating to Prohibition of Entry of Animals Without Inspection .

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-4, Hawaii Revised Statutes, is amended to read as follows:

"§142-4 Entry of animals without inspection prohibited. No [domestic] animal shall be allowed to enter the State except after inspection by the department of agriculture[,] and the issuance of a permit by the department to the consignee or owner; provided[,] that no fees for inspection shall be charged, nor delays caused, concerning the landing of any domestic animal for which a certificate of health has been issued as prescribed by the [Act of Congress approved February 2, 1903, and entitled "An Act to enable the Secretary of Agriculture to more effectually suppress and prevent the spread of infectious and contagious diseases of livestock and for other purposes."]Federal Cattle Contagious Disease Act. Every carrier, owner, or handler bringing animals into the State shall be required to present these animals to the department of agriculture for inspection."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 264

H.B. NO. 1974-86

A Bill for an Act Relating to Issuance of Summons and Citation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-29, Hawaii Revised Statutes, is amended to read as follows:

"[]§142-29[] **Enforcement; citation and summons [and citation; penalty].** Any officer or employee of the department of agriculture, authorized and designated by the board of agriculture to enforce the provisions of [Part I of] this chapter[,] and all rules [and regulations promulgated and] adopted by the department pursuant thereto and to investigate violations of this chapter and rules adopted thereunder, may issue a citation and summons to any person for violation of any provision of this chapter or of any rule [or regulation promulgated and] adopted pursuant thereto[, and shall take the name and address of such person and issue to him a summons and citation, printed in the form hereinafter described, summoning him to appear at a certain place at a time within seven days of such citation, to answer the charges against him]."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 265

H.B. NO. 1976-86

A Bill for an Act Relating to Health Certificate.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 142, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§142- **Health certificate.** Any animal entering the State pursuant to this chapter shall be accompanied by a valid health certificate. The health certificate shall include information as to the animal's identification, approximate age, species, and sex if the animal's sex can be practicably and reasonably determined. The animal shall be free of certain internal and external parasites as prescribed by departmental rules. A statement confirming this parasite-free status shall be noted on the health certificate. The animal shall also appear to be free of any infectious or contagious diseases and to the best of the issuing veterinarian's knowledge, shall not have been exposed to any of those diseases. A statement to this effect shall also be noted on the health certificate. In addition to the requirements of this section, any person responsible for any live animal entering the State, shall comply with appropriate departmental rules."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 266

H.B. NO. 1979-86

A Bill for an Act Relating to Notification of Arrival of Animals.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-8, Hawaii Revised Statutes, is amended to read as follows:

“§142-8 [Master of vessel to notify department. The master of any vessel on which there have been shipped live animals for any port in this State shall immediately, upon arrival, cause the department of agriculture to be notified, and shall not permit the animals to be taken from the wharf or landing, nor any portion of the food or water, nor any effects connected therewith or provided for their use during the voyage, to be removed from the wharf or landing until the department has inspected and passed the same.] Notification of arrival. The captain of any vessel or aircraft transporting any live animal to any port in this State shall immediately upon arrival in the State notify the department of agriculture. No animal so transported, nor any portion of the food or water nor any effects connected therewith or provided for the animal's use during transit, shall be removed from the wharf or airport until the department has inspected and passed the same. The department, at the owner's or shipper's expense, may require that the animal be moved to a more suitable location for inspection.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 267

H.B. NO. 1983-86

A Bill for an Act Relating to Fees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 142, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§142- Fees. (a) The department of agriculture may establish and assess fees pursuant to chapter 91 for facilities usage, vaccination programs, emergency transportation of quarantined animals, insecticides, medication, and other goods and services deemed necessary and provided by the department of agriculture in enforcing the provisions of this chapter; provided that the assessment of these fees does not violate any other provision of this chapter.

(b) All fees and expenses, other than for the initial inspection, relating to quarantine, confinement, investigation, overtime, meals, transportation, recapture, vaccination, examination, treatment, dipping, and any other function deemed necessary by the department shall be the responsibility of the owner, consignee, or handler.”

SECTION 2. New statutory material is underscored.¹

ACT 268

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 268

H.B. NO. 1984-86

A Bill for an Act Relating to Destruction of Animals Ferae Naturae.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-91, Hawaii Revised Statutes, is amended to read as follows:

"§142-91 Destruction of animals ferae naturae[; penalty]. (a) No person shall shoot or otherwise destroy any animal ferae naturae[which have been introduced into the State within ten years, nor the progeny of the animals, under a penalty of not more than \$50 for each offense.] or its progeny within ten years of the introduction of the species into the State.

(b) Nothing in this section shall be construed to prohibit the destruction of such animals as shall be proved to be common nuisances."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 269

H.B. NO. 1989-86

A Bill for an Act Relating to Glanders and Farcy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-15, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 270

H.B. NO. 1990-86

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, and others for overpayment of taxes, or on account of other claims for refunds, reimbursements, or other payments, against the State in the amount set forth opposite their names:

REFUND OF TAXES:	<u>Amount</u>
AIRLINES HOLDING, INC.	
Interest on refunds:	\$ 736.08
ALOHA AIRLINES, INC.	
No. 10350, Supreme Court of Hawaii	
Interest on refund:	\$ 69,243.48
HAWAIIAN AIRLINES, INC.	
No. 10350, Supreme Court of Hawaii	
Interest on refunds:	\$ 68,015.99
HAWAIIAN AIRLINES, INC.	
No. 10350, Supreme Court of Hawaii	
Interest on PSC Taxes (9/75, 12/75)	\$542,775.02
PRINCEVILLE AIRWAYS, INC.	
No. 2019, Tax Appeal	
Interest on refunds:	\$ 21,698.24
ROYAL HAWAIIAN AIRWAYS, INC.	
No. 2259, Tax Appeal	
Interest on refunds:	\$ 14,670.99
JUDGMENTS AGAINST THE STATE	
AND SETTLEMENTS OF CLAIMS:	<u>Amount</u>
AHN, Melinda	
Civil No. 76338, First Circuit	
Amount of Settlement:	\$150,000.00
No interest	
AKIOKA, Dino	
Civil No. 82073, First Circuit	
Amount of Settlement:	\$ 15,000.00
No interest	
ALEJO, Guillermo and Hermelinda Alejo	
Civil No. 81888 (First Circuit)	
Amount of Settlement:	\$125,000.00

ACT 270

Date of Settlement: April 10, 1986

No Interest

BLIGHT, Patricia

Civil No. 62456, First Circuit

Amount of Settlement: \$ 30,000.00

No interest

BROWN, Glenwood \$ 41,986.85

Civil No. 5843(1), Second Circuit

Amount of Settlement: \$ 40,500.00

Interest at 4% from 7-31-85: 1,486.85

CHAKROBORTTY, Maitrayee

Civil No. 76389, First Circuit

Amount of Settlement: \$270,000.00

No interest

CRAIG, Stanley

Civil No. 7927, Third Circuit

Amount of Settlement: \$ 50,000.00

No interest

CRUZ, Esther

Civil No. 9657, Third Circuit

Amount of Settlement: \$ 20,000.00

No interest

DEETZ, Susanne

Civil No. 65494, First Circuit

Amount of Settlement: \$ 10,000.00

No interest

DEPARTMENT OF EDUCATION v. MR. AND MRS. L.

U.S.D. Ct. Nos. 85-1461, 85-1484 (D. Haw.)

Amount of Settlement: \$ 4,000.00

Date of Settlement: March 11, 1986

No interest

DYER, Charlene, et al., not to exceed: \$393,562.92

and conditional upon entry of a final judgment

Haw. S. Ct. No. 10493

Date of Trial Judgment: 11-13-84

Amount of Judgment:	\$319,400.50
Costs:	\$ 19,078.38
Interest not to exceed:	\$ 55,084.04
FRIEDNER, Gerald	
Civil No. 8728, Third Circuit	
Amount of Settlement:	\$ 25,000.00
No interest	
GUERRERO, Emmanuel	
Civil No. 82705, First Circuit	
Amount of Settlement:	\$ 5,000.00
No interest	
HASHIMOTO, Dana	
Civil No. 83486, First Circuit	
Amount of Settlement:	\$ 13,000.00
No interest	
HAUPT, Boyd	
Civil No. 71979, First Circuit	
Amount of Settlement:	\$ 15,000.00
No interest	
HELLMAN, Richard	
Civil No. 10094 (Third Circuit)	
Amount of Settlement:	\$ 5,000.00
Date of Settlement: March 27, 1986	
No interest	
HO, Aloha	
Civil No. 79048, First Circuit	
Amount of Settlement:	\$ 85,000.00
No interest	
HUTCHINSON, Bonnie	
Civil No. 7916, First Circuit	
Amount of Settlement:	\$ 25,000.00
No interest	
IKEGAMI, David T.	
Civil No. 70511, First Circuit	
Amount of Settlement:	\$110,522.82

ACT 270

No interest

In the Matter of the Arbitration Between
U.H. v. UHPA, on behalf of Alice Daeufer

S. P. No. 85-0012

\$186,308.00

Date of Judgment: February 5, 1986

JAMIESON, Alice Diane

Civil No. 86-288, Third Circuit

Amount of Settlement:

\$ 7,195.00

Date of Settlement: April 9, 1986

No interest

KAAHEA, Sheryl

Civil No. 71631, First Circuit

Amount of Settlement:

\$ 5,500.00

No interest

LITTLEMAN, Joseph

\$ 5,149.59

Civil No. 2884, Fifth Circuit

Date of Settlement: October 10, 1985

Amount of Settlement:

\$ 5,000.00

Interest at 4% from 10-1-85:

149.59

MATTOON, Margaret

Civil No. 84-1958 (First Circuit)

Amount of Settlement:

\$ 76,000.00

Date of Settlement: April 4, 1986

No interest

MAU, Mary E.

\$ 6,493.86

Civil No. 67523, First Circuit

Date of Judgment: August 9, 1985

Amount of Judgment:

\$ 6,269.86

Interest at 4% from 8-9-85:

224.00

MICHELY, Albert

Civil No. 79542, First Circuit

Amount of Settlement:

\$ 34,000.00

No interest

MIDPAC LUMBER CO., LTD.

Civil No. 48062, First Circuit

Amount of Settlement:	\$ 40,000.00
No interest	
NAKOA, et al. v. State, et al.	
Civil No. 69564, First Circuit	
Amount of Settlement:	\$ 50,000.00
No interest	
PARK, Kui-Im	
Civil No. 81403, First Circuit	
Amount of Settlement:	\$ 5,000.00
No interest	
PRATT, Jane	
Civil No. 85-0504, First Circuit	
Amount of Settlement:	\$ 5,406.89
No interest	
PUAILIHAU, Lorna	
Civil No. 7279(1), Second Circuit	
Amount of Settlement:	\$ 12,000.00
No interest	
QUON, Sharlan	
Civil No. 82465, First Circuit	
Amount of Settlement:	\$100,000.00
Date of Settlement: April 3, 1986	
No interest	
SAIZON, Scott	
Civil No. 82543, First Circuit	
Amount of Settlement:	\$ 25,000.00
No interest	
SAKUMA, Leatrice N.	
Civil No. 77847, First Circuit	
Amount of Settlement:	\$300,000.00
No interest	
SAN JOSE, Gerardo Parada	
Civil No. 59074, First Circuit	
Amount of Settlement:	\$136,686.56
No interest	

ACT 270

SCOTT, Patrick

Civil No. 81554, First Circuit

Amount of Settlement: \$1,000,000.00

Date of Settlement: March 24, 1986

No interest

SPEAR, Agnes

\$337,109.21

Civil No. 84-1104, U.S.D.C.

Date of Settlement: 9-11-85

Amount of Settlement:

Costs: \$ 83,259.00

Attorney's Fees: 220,000.00

Interest at 10% from 9-11-85: 24,343.80

4% GET on Attorney's Fees and

Interest on Attorney's Fees: 9,506.41

SOUZA, Clarice

Civil No. 85-1192, First Circuit

Amount of Settlement: \$ 7,500.00

SWERS, Barbara \$ 96,485.96

Civil No. 67502, First Circuit

Date of Judgment: May 3, 1985

Amount of Judgment: \$ 92,201.73

Interest at 4% from 5-3-85: 4,284.23

TANAKA, Kenneth \$229,547.40

Civil No. 78352, First Circuit

Date of Settlement: 5-31-85

Amount of Settlement: \$220,000.00

Interest at 4% from 5-31-85: 9,547.40

TIN, Timothy

Civil No. 3422, Fifth Circuit

Amount of Settlement: \$300,000.00

No interest

TOYOTA, Violet

Civil No. 69885, First Circuit

Amount of Settlement: \$ 15,750.00

No interest

TREU, Shane

Civil No. 5411, Second Circuit

Amount of Settlement: \$ 20,000.00

No interest

TRUJILLO, Celia

Civil No. 77210, First Circuit

Amount of Settlement: \$ 20,000.00

No interest

TWEEDT, James

Civil No. 6045(1), Second Circuit

Amount of Settlement: \$ 3,500.00

No interest

VISAYA, Artemio

Civil No. 74464, First Circuit

Amount of Settlement: \$ 13,281.38

No interest

YAMAMOTO, Chieko

Civil No. 82795, First Circuit

Amount of Settlement: \$ 40,000.00

No interest

MISCELLANEOUS CLAIMS:

Amount

CROWE, Randall W. \$ 100.00

NAKANISHI, Ellen N. 250.00

BAPTISTA, Viola 44.58

SECTION 2. The sums hereinabove appropriated shall be paid to the respective persons and in the several amounts hereinabove set forth upon warrants issued by the comptroller of the State: (1) upon vouchers approved by the director of taxation as to any claims for overpayment of taxes and (2) upon vouchers approved by the attorney general as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate stated above, shall be limited to the period from the date of judgment or settlement to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, and all unexpended balances thereof after payment shall lapse into the general fund of the State as of the close of business on June 30, 1987.

SECTION 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the

invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 271

H.B. NO. 1992-86

A Bill for an Act Relating to the Uniform Unclaimed Property Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 523A-11, Hawaii Revised Statutes, is amended to read as follows:

“**[[§523A-11 []] Property of business associations held in course of dissolution.** Intangible property distributable in the course of a dissolution of a business association which remains unclaimed by the owner [for more than one year] after the date specified for final distribution is presumed abandoned.”

SECTION 2. Section 523A-17, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The report shall be verified and shall include:

- (1) Except with respect to travelers checks and money orders, the name, if known, and the last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of [\$25] \$50 or more presumed abandoned under this chapter;
- (2) In the case of unclaimed funds of [\$25] \$50 or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;
- (3) In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible property, a description of the property and the place where it is held and may be inspected by the director and any amounts owing to the holder;
- (4) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under [\$25] \$50 each may be reported in the aggregate;
- (5) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property; and
- (6) Other information the director prescribes by rule as necessary for the administration of this chapter.”

SECTION 3. Section 523A-17, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Not more than [one hundred twenty days] six months before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at the apparent

owner's last known address informing the apparent owner that the holder is in possession of property subject to this chapter if:

- (1) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate[.];
- (2) The claim of the apparent owner is not barred by the statute of limitations[.]; and
- (3) The property has a value of \$50 or more."

SECTION 4. Section 523A-35, Hawaii Revised Statutes, is amended to read as follows:

"[] §523A-35[] Agreement to locate reported property. [All agreements to pay compensation to recover or assist in the recovery of property reported under section 523A-17, made within twenty-four months after the date payment or delivery is made under section 523A-19, are unenforceable.] No agreement entered into within two years after the report is filed under section 523A-17 shall be valid if any person thereby undertakes to locate property included in that report for a fee or other compensation. Thereafter, any agreement entered into for the recovery or for assistance in the recovery of such property shall be valid if the fee or other compensation under such agreement does not exceed twenty per cent of the value of the property claimed. Such an agreement shall be valid only if it is in writing, signed by the owner, and clearly sets forth the nature and value of the property and the value of the owner's share after the fee or compensation has been deducted. Nothing in this section shall be construed to prevent any owner from asserting, at any time, that any agreement to locate property is based upon excessive or unjust consideration."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 272

H.B. NO. 2014-86

A Bill for an Act Relating to the Department of Land and Natural Resources.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 183D-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately designated and to read as follows:

"Aquaculture" means the farming or ranching of aquatic life in a controlled salt, brackish, or freshwater environment, provided that the farm or ranch is on or directly adjacent to land."

SECTION 2. Section 183D-61, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department may adopt rules pursuant to chapter 91:

- (1) Authorizing the taking and collecting of wild birds, game birds, and game mammals for scientific and educational purposes, or for the purpose of distributing wild birds to different localities in the State pursuant to this title;

- (2) Authorizing the keeping of wild birds in captivity for the protection, treatment for injury or disease, propagation, and such other similar purposes as are consistent with the preservation, protection, and conservation of wild birds;
- (3) Authorizing the taking and destruction of those wild birds, game birds, and game mammals the department may have found after investigation to be destructive to crops or to other game birds and game mammals or otherwise harmful to agriculture[,] or aquaculture, or to constitute a nuisance or a health hazard; or
- (4) [Where species] Authorizing without requiring permits or reports, the destruction within a district of wild birds, game birds, and game mammals which are generally destructive to crops or otherwise harmful to agriculture[,] or aquaculture, or constitute a nuisance or a health hazard within [a] the district[, authorizing their destruction within that area without requiring permits or reports]."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 273

H.B. NO. 2042-86

A Bill for an Act Relating to Podiatrists.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 463E-3, Hawaii Revised Statutes, is amended to read as follows:

"§463E-3 Qualification for examination. No person shall be licensed to practice podiatry unless [he] the applicant has passed [an examination] the examinations described in section 463E-4 and has been found to be possessed of the necessary qualifications as required by the board.

Before any applicant shall be eligible for [such examination he] the examinations, the applicant shall furnish satisfactory proof to the board that:

- (1) [He] The applicant is a graduate in podiatry of a college approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association and by the board of medical examiners;
- (2) [He] The applicant has taken and satisfactorily completed in a college, a residence course of professional instruction in podiatry, which has been approved by the board; and
- (3) [He has passed the examinations in podiatry and related sciences which have been administered by the board.] The applicant is of demonstrated competence and professional knowledge."

SECTION 2. Section 463E-4, Hawaii Revised Statutes, is amended to read as follows:

"§463E-4 Examinations. (a) The board shall administer examinations which shall include, but not be limited to, examinations in the following areas: anatomy, histology and embryology, physiology, biochemistry, hygiene

and public health, pathology, bacteriology, dermatology, syphilology, surgery and anesthesia, podiatry, therapeutics, physical medicine, podiatric medicine, pharmacology, materia medica, roentgenologic technique, and radiation safety.

(b) The examinations shall be held in Honolulu twice a year at a time and day which is convenient for the board.

(c) The board may accept the certificate of the National Board of Podiatry Examiners [as approved by the American Podiatry Association] or an equivalent testing agency in lieu of and as equivalent to part or all of its own written examination. [Every applicant for licensure upon the basis of the certificate, shall upon application, show the necessary qualifications required under this chapter and pay the same fees required of applicants for examination by the board.]

(d) The written examination shall be secured from and corrected by the National Board of Podiatry Examiners[.] or an equivalent testing agency. The board, in addition may administer a written examination of podiatric medical clinical competency which may include portions which address the basic sciences and clinical sciences that support the clinical practice of podiatric medicine."

SECTION 3. Section 463E-5, Hawaii Revised Statutes, is amended to read as follows:

"§463E-5 Fees; expenses. No applicant shall be examined under this chapter until [he] the applicant has paid to the board of medical examiners [a fee of \$25. Every person holding a license under this chapter shall reregister with the board biennially in each even-numbered year, not later than January 31 and for such registration shall pay a fee of \$10. In addition, upon reregistering with the board, the licensee shall provide written proof of a minimum of forty hours of postgraduate work or continuing education of podiatry taken during the previous biennium. Failure to comply with this section shall constitute a forfeiture of license, which may be restored only upon written application and payment to the board of a fee of \$25. All fees collected shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund.] application, examination, and license fees. The board may provide separate fees for licensure by endorsement and for limited and temporary licenses. Every person holding a license under this chapter shall reregister with the board biennially in each even-numbered year, not later than January 31, and for registration shall pay a renewal fee. At the time of reregistration, the licensee shall provide written proof of a minimum of forty hours of postgraduate work or continuing education of podiatry taken during the previous biennium. Failure to reregister and present this proof shall constitute a forfeiture of the license, which may be restored only upon written application therefor and payment to the board of a restoration fee. All fees shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund."

SECTION 4. Section 463E-6, Hawaii Revised Statutes, is amended to read as follows:

"§463E-6 Revocation [and], suspension, or denial of license; sanctions. (a) Any license to practice podiatry may be revoked or suspended by the board of medical examiners at any time in a proceeding before the board, or

may be denied, for any one or more of the following acts or conditions on the part of the holder of the license[.] or the applicant therefor:

- (1) Employing what is popularly known as a "capper" or "steerer";
 - (2) Obtaining any fee on the assurance that a manifestly incurable disease can be permanently cured;
 - (3) Wilfully betraying a professional secret;
 - (4) Advertising one's podiatrist business with any untruthful and improbable statement;
 - (5) False or fraudulent advertising;
 - (6) Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to perform activities requiring a license;
 - (7) Violation of section 453-2;
 - (8) Professional misconduct or gross carelessness or manifest incapacity in the practice of podiatry;
 - (9) Engaging in the practice of podiatry other than as defined in section 463E-1;
 - (10) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or a habitual user of a narcotic, [barbituate,] barbiturate, amphetamine, hallucinogen, or other drug having similar effect;
 - (11) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
 - (12) Negligence or incompetence, including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary;
 - (13) Revocation, suspension, or other disciplinary action by another state of a license for reasons as provided in this section;
 - (14) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a podiatrist, notwithstanding any statutory provision to the contrary;
 - (15) Violation of chapter 329, uniform controlled substance act, or any regulation promulgated thereunder; [or]
 - (16) Failure to report to the board, in writing, any disciplinary action taken against the licensee in another jurisdiction[.] within thirty days after the disciplinary action becomes final; or
 - (17) Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement or omission of fact.
- (b) In addition to or in lieu of revoking or suspending a license to practice podiatry, the board may impose one or more of the following actions:
- (1) Place the licensee on probation, including such conditions of probation as requiring observation of the licensee by an appropriate group or society of licensed podiatrists.
 - (2) Limit the license by restricting the field of practice in which the licensee may engage.
 - (3) Fine the licensee, including assessment against [him] the licensee of the cost of the disciplinary proceedings. Any fine imposed by the board after a hearing in accordance with chapter 91 shall be no less than \$500 and no more than \$5,000 for each violation, exclusive of the costs of the disciplinary proceedings.

- (4) Temporarily suspend the license for not more than thirty days without a hearing, when the board finds the practice of the licensee probably constitutes an immediate and grave danger to the public.
- (5) Require further education or training or require proof of performance competency."

SECTION 5. Section 463E-7, Hawaii Revised Statutes, is amended to read as follows:

"[]§463E-7[] **Hearing; procedure.** In any proceeding before the board of medical examiners for the revocation or suspension of a license to practice podiatry for any act or condition listed in section 463E-6, the person whose license is sought to be revoked or suspended shall be given notice and opportunity for a hearing in accordance with chapter 91. Any applicant whose application for a license to practice podiatry has been denied shall be given notice and the opportunity for a hearing pursuant to chapter 91."

SECTION 6. Section 463E-11, Hawaii Revised Statutes, is amended to read as follows:

"[]§463E-11[] **Penalty.** Any person who violates this chapter shall be guilty of a misdemeanor. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 274

H.B. NO. 2045-86

A Bill for an Act Relating to Fines.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 91-14, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The proceedings for review shall not stay enforcement of the agency decisions[;] or the confirmation of any fine as a judgment pursuant to section 92-17(g); but the reviewing court may order a stay if the following criteria have been met:

- (1) There is likelihood that the subject person will prevail on the merits of an appeal from the administrative proceeding to the court;
- (2) Irreparable damage to the subject person will result if a stay is not ordered;
- (3) No irreparable damage to the public will result from the stay order; and
- (4) Public interest will be served by the stay order."

SECTION 2. Section 92-17, Hawaii Revised Statutes, is amended to read as follows:

“§92-17 Consumer complaints; procedures and remedies. (a) All boards as defined by section 92-2(1) established to license or regulate any profession, occupation, industry, or service, shall receive complaints from consumers and other persons claiming to be aggrieved by business practices related to their respective jurisdictions.

(b) Upon receipt of a written complaint or upon receipt of an investigation report generated by the board on its own motion or upon staff investigation which establishes an alleged violation of any provision of law or rule, the board or its authorized representative shall notify the licensee or person regulated of the charge against him and conduct a hearing in conformity with chapter 91 if the matter cannot be settled informally. If the board finds that the charge constitutes a violation, the board may order one or more of the following remedies as appropriate relief:

- (1) Refunding the money paid as fees for services;
- (2) Correcting the work done in providing services;
- (3) Revocation of the licensee's permit or license;
- (4) Suspension of the licensee's permit or license;
- (5) Imposition of a fine; and
- (6) Any other reasonable means to secure relief as determined by the board.

The board may also assess the licensee, as a penalty, any cost incurred in publishing the notice of hearing when service by registered or certified mail to the address listed on the licensee's record is unsuccessful.

(c) Notwithstanding any provision to the contrary:

- (1) No license or permit shall be suspended by the board for a period exceeding two years.
- (2) A person whose license or permit has been revoked by the board may not reapply for a license until the expiration of at least two years from the effective date of the revocation of the license or permit.
- (3) A suspended license or permit shall be reinstated at the end of the suspension; provided that the suspension does not carry forward to the next license period and the person satisfies all licensing requirements and conditions contained in the order of the suspension. If a suspension carries forward to the next license period, the board shall not renew the suspended license or permit during the usual renewal period. At the end of the suspension period, a person whose license or permit was suspended may be reinstated upon filing a reinstatement form provided by the board and payment of the renewal fees, satisfaction of any other renewal requirements and fulfillment of conditions, if any, contained in the order of suspension. If the person fails to apply within thirty days after the end of the suspension, the person's license or permit shall be forfeited.

(d) The failure or refusal of the licensee to comply with any board order, including an order of license suspension, shall also constitute grounds for further disciplinary action, including a suspension or revocation of license, imposition of which shall be subject to chapter 91 and the procedural rules of the board. The board may also apply to any circuit court for injunctive relief to compel compliance with the board's order. Where appropriate, the board shall refer for prosecution to the proper authority any practice constituting a violation which is subject to criminal penalty.

(e) If the subject matter of the complaint does not come within its jurisdiction, or if it is found that the charge does not constitute a violation, the board shall notify and inform the complainant in writing with regard to the reasons for its inability to act upon the complaint.

(f) The complainant and the licensee or person regulated may agree to resolve the complaint through final and binding arbitration pursuant to [the provisions of] chapter 658. In the event of an agreement to arbitrate, the board may enter an order dismissing any proceeding instituted pursuant to subsection (b); provided that the order of dismissal may be conditioned upon prompt and complete compliance with the arbitrator's award. In the event that the licensee or person regulated fails to comply with the terms of the arbitrator's award, the board may reopen the proceeding and may, after a hearing in conformity with chapter 91, order one or more of the remedies set forth in subsection (b).

Notwithstanding any provision of chapter 658 to the contrary, an arbitration agreement entered into pursuant to this section shall be approved by the board, and the parties shall agree on an arbitrator within five days after execution of the agreement. If the parties fail to agree on an arbitrator within the time above prescribed, the board may appoint an arbitrator from a list of arbitrators maintained for that purpose by the department of commerce and consumer affairs.

(g) A fine levied in a final order of a board or commission pursuant to subsection (b) shall be confirmed as a judgment by a circuit court in which the respondent resides or has property or in which the act complained of had occurred, by filing the board or commission's final order any time after thirty days after the issuance of that final order. The judgment issued thereon shall have the same force and effect and be enforceable and collectible as any other judgment issued in the circuit court. Nothing herein shall impair the right of the board or commission to apply to the circuit court for injunctive relief pursuant to subsection (d)."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 275

H.B. NO. 2106-86

A Bill for an Act Relating to General Provisions of Aquatic Resources and Wildlife.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 187, Hawaii Revised Statutes, is repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 276

H.B. NO. 2109-86

A Bill for an Act Relating to the Hawaii State Plan.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 226-1, Hawaii Revised Statutes, is amended to read as follows:

"§226-1 Findings and purpose. The legislature finds that there is a need to improve the planning process in this State, to increase the effectiveness of public and private actions, to improve coordination among different agencies and levels of government, to provide for wise use of Hawaii's resources and to guide the future development of the State.

The purpose of this chapter is to set forth the Hawaii state plan that shall serve as a guide for the future long-range development of the State; identify the goals, objectives, policies, and priorities for the State [of Hawaii]; provide a basis for determining priorities and allocating limited resources, such as public funds, services, [manpower,] human resources, land, energy, water, and other resources; improve coordination of state and county plans, policies, programs, projects, and regulatory activities; and to establish a system for plan formulation and program coordination to provide for an integration of all major state and county activities."

SECTION 2. Section 226-2, Hawaii Revised Statutes, is amended to read as follows:

"§226-2 Definitions. As used in this chapter, unless the context otherwise requires:

- (1) "Department" means the department of planning and economic development.
- (2) "Policy council" means the council established in section 226-53.
- (3) "Advisory committee" means the committee established in section 226-57 to advise and assist in the formulation of the state functional plans.
- (4) "State agency" means any department, office, board, or commission of the State, or the University of Hawaii.
- (5) "County agency" means any department, office, board or commission of the county.
- (6) "Hawaii state plan" means a long-range comprehensive plan, including the overall theme, goals, objectives, policies, priority guidelines, and implementation mechanisms established in this chapter.
- (7) "Priority guidelines" means those guidelines which shall take precedence when addressing areas of statewide concern.
- (8) "County general plan" means the comprehensive long-range plan or development plan, if any, which has been adopted by ordinance or resolution by a county council.
- (9) "County development plan" means a relatively detailed plan for an area or region within a county to implement the objectives and policies of a county general plan.
- (10) "Functional plan" means a plan setting forth the policies, statewide guidelines, and priorities within a specific field of activity, when such activity or program is proposed, administered, or funded by any agency of the State.
- (11) "State programs" means a combination of actions and activities undertaken by any state agency that are designed, coordinated, and executed to achieve an objective or set of objectives and policies within defined areas of concern.

- (12) "A-95 Clearinghouse" means the agency or agencies designated to carry out the procedures established pursuant to federal directive A-95 whereby certain applications for federal funds are reviewed and affected agencies are notified of the proposed applications.
- (13) ["Regional carrying capacity" means the maximum population in a given area that can be adequately supported in an economically and environmentally sound manner.] "Socio-cultural advancement" means those collective efforts, through governmental or private organizations or both, to improve the community or social well-being by carrying out the objectives and policies as related to: housing, health, education, social services, leisure, individual rights, culture, and public safety.
- (14) For the purposes of sections 226-52, 226-57, and 226-62, "conform", "in conformance with this chapter" or "be in conformance with the overall theme, goals, objectives and policies" means the weighing of the overall theme, goals, objectives and policies of this chapter and a determination that an action, decision, rule or state program is consistent with the overall theme, and fulfills one or more of the goals, objectives or policies of this chapter.
- (15) For the purposes of this chapter, "guidelines" means a stated course of action which is desirable and should be followed unless a determination is made that it is not the most desirable in a particular case; thus, a guideline may be deviated from without penalty or sanction."

SECTION 3. Section 226-4, Hawaii Revised Statutes, is amended to read as follows:

"[§226-4] **State goals.** In order to guarantee, for present and future generations, those elements of choice and mobility that insure that individuals and groups may approach their desired levels of self-reliance and self-determination, it shall be the goal of the State to achieve:

- (1) A strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawaii's present and future generations.
- (2) A desired physical environment, characterized by beauty, cleanliness, quiet, stable natural systems, and uniqueness, that enhances the mental and physical well-being of the people.
- (3) Physical, social, and economic well-being, for individuals and families in Hawaii, that nourishes a sense of community responsibility, of caring, and of participation in community life."

SECTION 4. Section 226-5, Hawaii Revised Statutes, is amended to read as follows:

"[§226-5] **Objective and policies for population.** (a) It shall be the objective in planning for the State's population to guide population growth to be consistent with the achievement of physical, economic, and social objectives contained in this chapter.

(b) To achieve the population objective, it shall be the policy of this State to:

- (1) Manage population growth statewide in a manner that provides increased opportunities for Hawaii's people to pursue their physical, social, and economic aspirations while recognizing the unique needs of each county.

- (2) Encourage an increase in economic activities and employment opportunities on the Neighbor Islands consistent with community needs and desires.
- [(3)] Ensure that adequate support services and facilities are provided to accommodate the desired distribution of future growth throughout the State.
- (4)] (3) Promote increased opportunities for Hawaii's people to pursue their socio-economic aspirations throughout the islands.
- [(5)] Seek legislative and other means to manage the rate of migration of new residents to the State of Hawaii, in order that it may be consistent with the achievement of physical, economic, and social objectives contained in this chapter.
- (6)] (4) [Foster] Encourage research activities and public awareness programs to foster an understanding of Hawaii's [capacities] limited capacity to accommodate population needs[,] and to address concerns resulting from an increase in Hawaii's population.
- [(7)] (5) Encourage federal actions that will promote a more balanced distribution of immigrants among the states, provided that such actions do not prevent the reunion of immediate family members.
- [(8)] (6) Pursue an increase in federal assistance for states with a greater proportion of foreign immigrants relative to their state's population.
- (7) Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographic area."

SECTION 5. Section 226-6, Hawaii Revised Statutes, is amended to read as follows:

"[] §226-6[]] **Objectives and policies for the economy—in general.** (a) Planning for the State's economy in general shall be directed toward achievement of the following objectives:

- (1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people.
 - (2) A steadily growing and diversified economic base that is not overly dependent on a few industries.
- (b) To achieve the general economic objectives, it shall be the policy of this State to:
- (1) Expand Hawaii's national and international marketing, communication, and organizational ties, to increase the State's capacity to adjust to and capitalize upon economic changes and opportunities occurring outside the State.
 - (2) Promote Hawaii as an attractive market for environmentally and socially sound investment activities that benefit Hawaii's people.
 - (3) Seek broader outlets for new or expanded Hawaii business investments.
 - (4) Expand existing markets and penetrate new markets for Hawaii's products and services.
 - (5) Assure that the basic economic needs of Hawaii's people are maintained in the event of disruptions in overseas transportation.
 - (6) Strive to achieve a [sustained] level of construction activity responsive to, and consistent with, state growth objectives.

- (7) Encourage the [formulation] formation of [marketing] cooperatives and other favorable marketing arrangements at the local or regional level to assist Hawaii's small scale producers, manufacturers, and distributors.
- [(8)] Pursue more favorable marketing arrangements at the regional and local levels for Hawaii's export products.
- (9)] (8) Encourage labor-intensive activities that are economically satisfying[.] and which offer opportunities for upward mobility.
- [(10)] (9) Foster greater cooperation and coordination between the public and private sectors in [solving] developing Hawaii's employment [problems.] and economic growth opportunities.
- [(11)] (10) [Promote] Stimulate the development and expansion of economic activities[, especially those] which will benefit areas with substantial [unemployment] or expected employment problems.
- [(12)] (11) Maintain acceptable working conditions and standards for Hawaii's workers.
- [(13)] (12) Provide equal employment opportunities for all segments of Hawaii's population through affirmative action and [anti-discrimination] non-discrimination measures.
- [(14)] (13) Encourage businesses that have favorable financial multiplier effects within Hawaii's economy.
- [(15)] (14) Promote and protect intangible resources in Hawaii, such as scenic beauty and the aloha spirit, which are vital to a healthy economy.
- (15) Increase effective communication between the educational community and the private sector to develop relevant curricula and training programs to meet future employment needs in general, and requirements of new, potential growth industries in particular.
- (16) Foster a business climate in Hawaii—including attitudes, tax and regulatory policies, and financial and technical assistance programs—that is conducive to the expansion of existing enterprises and the creation and attraction of new business and industry."

SECTION 6. Section 226-7, Hawaii Revised Statutes, is amended to read as follows:

"[]§226-7[] Objectives and policies for the economy—agriculture.

(a) Planning for the State's economy with regard to agriculture shall be directed towards achievement of the following objectives:

- (1) [Increased] Continued viability in Hawaii's sugar and pineapple industries.
- (2) Continued growth and development of diversified agriculture throughout the State.
- (b) To achieve the agriculture objectives, it shall be the policy of this

State to:

- (1) Foster [attitudes and activities conducive to maintaining] increased public awareness and understanding of the contributions and benefits of agriculture as a major sector of Hawaii's economy.
- (2) Seek the enactment and retention of federal and state legislation that benefits Hawaii's agricultural industries.
- (3) [Promote Hawaii's agricultural products] Strengthen diversified agriculture by developing an effective promotion, marketing, and

distribution system between Hawaii's producers and consumer markets locally, on the continental United States, and internationally.

- (4) Support research and development activities that provide greater efficiency and economic productivity in agriculture.
- (5) Enhance agricultural growth by providing public incentives and encouraging private initiatives.
- (6) Assure the availability of agriculturally suitable lands with adequate water to accommodate present and future needs.
- (7) Increase the attractiveness and opportunities for an agricultural education and livelihood.
- (8) Expand Hawaii's agricultural base by promoting growth and development of flowers, tropical fruits and plants, livestock, feed grains, forestry, food crops, aquaculture, and other potential enterprises.
- [(9)] Strengthen diversified agriculture by developing an effective marketing and distribution system between producer and consumer.
- [(10)] (9) Promote economically competitive activities that increase Hawaii's agricultural self-sufficiency.
- [(11)] (10) Promote and assist in the establishment of sound financial programs for diversified agriculture.
- (11) Institute and support programs and activities to assist the entry of displaced agricultural workers into alternative agricultural or other employment.
- (12) Facilitate the transition of agricultural lands in economically non-feasible agricultural production to economically viable agricultural uses."

SECTION 7. Section 226-8, Hawaii Revised Statutes, is amended to read as follows:

"[]§226-8[]] **Objective and policies for the economy—visitor industry.** (a) Planning for the State's economy with regard to the visitor industry shall be directed towards the achievement of the objective of a visitor industry that constitutes a major component of steady growth for Hawaii's economy.

(b) To achieve the visitor industry objective, it shall be the policy of this State to:

- (1) [Assist] Support and assist in the [overseas] promotion of Hawaii's [vacation] visitor attractions[.] and facilities.
- (2) Ensure that visitor industry activities are in keeping with the social, economic, and physical needs and aspirations of Hawaii's people.
- (3) Improve the quality of existing visitor destination areas.
- (4) Encourage [greater] cooperation between the public and private sectors in developing and maintaining well-designed [and], adequately serviced visitor industry and related developments[.] which are sensitive to neighboring communities and activities.
- [(5)] Ensure that visitor facilities and destination areas are carefully planned and sensitive to existing neighboring communities and activities.
- (6)] (5) Develop the industry in a manner that will continue to provide [the greatest number of primary jobs] new job opportunities and steady employment for Hawaii's people.

- [(7)] (6) Provide opportunities for Hawaii's people to obtain job training and education that will allow for upward mobility within the visitor industry.
- [(8)] (7) Foster a recognition of the contribution of the visitor industry to Hawaii's economy and the need to perpetuate the aloha spirit.
- [(9)] (8) Foster an understanding by visitors of the aloha spirit and of the unique and sensitive character of Hawaii's cultures and values."

SECTION 8. Section 226-9, Hawaii Revised Statutes, is amended to read as follows:

"[] §226-9[] **Objective and policies for the economy—federal expenditures.** (a) Planning for the State's economy with regard to federal expenditures shall be directed towards achievement of the objective of a stable federal investment base as an integral component of Hawaii's economy.

(b) To achieve the federal expenditures objective, it shall be the policy of this State to:

- (1) Encourage the sustained flow of federal expenditures in Hawaii that generates long-term government civilian employment.
- (2) [Maintain] Promote Hawaii's supportive role in national defense.
- (3) Promote the [future] development of federally supported activities in Hawaii that respect state-wide economic concerns, are sensitive to community needs, and minimize adverse impacts on Hawaii's environment.
- (4) Increase opportunities for entry and advancement of Hawaii's people into federal government[.] service.
- (5) [Encourage] Promote federal use of local commodities, services, and facilities available in Hawaii.
- (6) Strengthen federal-state-county communication and coordination in all federal activities that affect Hawaii.
- (7) [Promote] Pursue the return of federally controlled lands in Hawaii that are not required for either the defense of the nation or for other purposes of national importance, and promote the mutually beneficial exchanges of land between federal agencies, the [state] State, and the counties."

SECTION 9. Section 226-10, Hawaii Revised Statutes, is amended to read as follows:

"[] §226-10[] **Objective and policies for the economy—potential growth activities.** (a) Planning for the State's economy with regard to potential growth activities shall be directed towards achievement of the objective of development and expansion of potential growth activities that serve to increase and diversify Hawaii's economic base.

(b) To achieve the potential growth activity objective, it shall be the policy of this State to:

- (1) [Encourage] Facilitate investment and employment in economic activities that have the potential for growth such as diversified agriculture, aquaculture, apparel and textile manufacturing, film and television production, and energy and marine-related industries.
- (2) Expand Hawaii's capacity to attract and service international programs and activities that generate employment for Hawaii's people.

- (3) Enhance and promote Hawaii's role as a center for international relations, trade, finance, services, technology, education, culture, and the arts.
- (4) Accelerate research and development of new energy-related industries based on wind, solar, ocean, and underground resources and solid waste.
- [(5) Encourage the formulation of marketing cooperatives to assist small scale producers, manufacturers, and distributors.
- (6) Pursue more favorable marketing arrangements at the regional and local levels for Hawaii's export products.
- (7)] (5) Promote Hawaii's geographic, environmental, social, and technological advantages to attract new economic activities into the State.
- [(8)] (6) Provide public incentives and encourage private initiative to attract new industries that [will] best support Hawaii's social, economic, physical, and environmental objectives.
- [(9)] (7) [Generate new] Increase research and the development of ocean-related economic activities [in] such as mining, food production, and scientific research.
- (8) Develop, promote, and support research and educational and training programs that will enhance Hawaii's ability to attract and develop economic activities of benefit to Hawaii.
- (9) Foster a broader public recognition and understanding of the potential benefits of new, growth-oriented industry in Hawaii."

SECTION 10. Section 226-11, Hawaii Revised Statutes, is amended to read as follows:

"[[]§226-11[[]] Objectives and policies for the physical environment—land-based, shoreline, and marine resources. (a) Planning for the State's physical environment with regard to land-based, shoreline, and marine resources shall be directed towards achievement of the following objectives:

- (1) Prudent use of Hawaii's land-based, shoreline, and marine resources.
- (2) Effective protection of Hawaii's unique and fragile environmental resources.
- (b) To achieve the land-based, shoreline, and marine resources objectives, it shall be the policy of this State to:
 - (1) Exercise an overall conservation ethic in the use of Hawaii's natural resources.
 - (2) Ensure compatibility between land-based and water-based activities and natural resources and ecological systems.
 - (3) Take into account the physical attributes of areas when planning and designing activities and facilities.
 - (4) [Encourage the beneficial use of statewide forest] Manage natural resources and environs to encourage their beneficial and multiple use without generating costly or irreparable environmental damage.
 - (5) Consider multiple uses in watershed areas, provided such uses do not detrimentally affect water quality and recharge functions.
 - (6) Encourage the protection of rare or endangered plant and animal species and habitats native to Hawaii.

- (7) Provide public incentives that encourage private actions to protect significant natural resources from degradation or unnecessary depletion.
- (8) Pursue compatible relationships among activities, facilities, and natural resources[, especially within shoreline areas].
- (9) Promote [greater] increased accessibility and prudent use of [the] inland and shoreline areas for public recreational, educational, and scientific purposes.”

SECTION 11. Section 226-12, Hawaii Revised Statutes, is amended to read as follows:

“[[§226-12]] **Objective and policies for the physical environment—scenic, natural beauty, and historic resources.** (a) Planning for the State’s physical environment shall be directed towards achievement of the objective of enhancement of Hawaii’s scenic assets, natural beauty, and multi-cultural/historical resources.

(b) To achieve the scenic, natural beauty, and historic resources objective, it shall be the policy of this State to:

- (1) Promote the preservation and restoration of significant natural and historic resources.
- (2) Provide incentives to maintain and enhance historic, cultural, and scenic amenities.
- (3) Promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of mountains, ocean [vistas], scenic landscapes, and other natural features.
- (4) Protect those special areas, structures, and elements that are an integral and functional part of Hawaii’s ethnic and cultural heritage.
- (5) Encourage the design of developments and activities that complement the natural beauty of the islands.”

SECTION 12. Section 226-13, Hawaii Revised Statutes, is amended to read as follows:

“[[§226-13]] **Objectives and policies for the physical environment—land, air, and water quality.** (a) Planning for the State’s physical environment with regard to land, air, and water quality shall be directed towards achievement of the following objectives:

- (1) Maintenance and pursuit of improved quality in Hawaii’s land, air, and water resources.
 - (2) Greater public awareness and appreciation of Hawaii’s environmental resources.
- (b) To achieve the land, air, and water quality objectives, it shall be the policy of this State to:
- (1) Foster educational activities that promote a better understanding of Hawaii’s limited environmental resources.
 - (2) Promote the proper management of Hawaii’s land and water resources.
 - (3) Promote effective measures to achieve desired quality in Hawaii’s surface, ground, and coastal waters.
 - (4) Encourage actions to maintain or improve aural and air quality levels to enhance the health and well-being of Hawaii’s people.

- (5) Reduce the threat to life and property from erosion, flooding, tsunamis, hurricanes, earthquakes, volcanic eruptions, and other natural or man-induced hazards and disasters.
- (6) Encourage design and construction practices that enhance the physical qualities of Hawaii's communities.
- (7) Encourage urban developments in close proximity to existing services and facilities.
- (8) Foster recognition of the importance and value of the land, air, and water resources to Hawaii's people, [and] their cultures and visitors."

SECTION 13. Section 226-14, Hawaii Revised Statutes, is amended to read as follows:

"[[§226-14[]] Objective and policies for facility systems—in general.

(a) Planning for the State's facility systems in general shall be directed towards achievement of the objective of water, transportation, waste disposal, and [utility] energy and telecommunication systems that support statewide social, economic, and physical objectives.

(b) To achieve the general facility systems objective, it shall be the policy of this State to:

- (1) Accommodate the needs of Hawaii's people through coordination of facility systems and capital improvement priorities [established through the planning process.] in consonance with state and county plans.
- (2) Encourage [flexible service delivery systems that can adapt to] flexibility in the design and development of facility systems to promote prudent use of resources and accommodate changing public demands and priorities.
- (3) Ensure that required facility systems can be supported within resource capacities and at reasonable cost to the user.
- (4) Pursue alternative methods of financing programs and projects and cost-saving techniques in the planning, construction, and maintenance of facility systems."

SECTION 14. Section 226-15, Hawaii Revised Statutes, is amended to read as follows:

"[[§226-15[]] Objectives and policies for facility systems—solid and liquid wastes. (a) Planning for the State's facility systems with regard to solid and liquid wastes shall be directed towards the achievement of the following objectives:

- (1) Maintenance of basic public health and sanitation standards relating to treatment and disposal of solid and liquid wastes.
- (2) [Adequate sewer infrastructure] Provision of adequate sewerage facilities for physical and economic activities that alleviate problems in housing, employment, mobility, and other areas.

(b) To achieve solid and liquid waste objectives, it shall be the policy of this State to:

- (1) Encourage the adequate development of [sewer systems] sewerage facilities that complement planned growth.
- (2) [Encourage] Promote re-use and recycling to reduce solid and liquid wastes and [develop] employ a conservation ethic.
- (3) Promote research to develop more efficient and economical treatment and disposal of solid and liquid wastes."

SECTION 15. Section 226-16, Hawaii Revised Statutes, is amended to read as follows:

“[]§226-16[] Objective and policies for facility systems–water. (a) Planning for the State’s facility systems with regard to water shall be directed towards achievement of the objective of the provision of water to adequately accommodate domestic, agricultural, commercial, industrial, recreational, and other needs within resource capacities.

(b) To achieve the facility systems water objective, it shall be the policy of this State to:

- (1) [Relate growth] Coordinate development of land use activities [to] with existing and potential water supply.
- (2) Support research and development of alternative [water sources.] methods to meet future water requirements well in advance of anticipated needs.
- (3) Reclaim and encourage the productive use of runoff water and waste water discharges.
- (4) Assist in improving the quality, efficiency, service, and storage capabilities of water systems for domestic and agricultural use.
- (5) Support water supply services to areas experiencing critical water problems.
- (6) Promote water conservation programs and practices[.] in government, private industry, and the general public to help ensure adequate water to meet long-term needs.”

SECTION 16. Section 226-17, Hawaii Revised Statutes, is amended to read as follows:

“[]§226-17[] Objectives and policies for facility systems– transportation. (a) Planning for the State’s facility systems with regard to transportation shall be directed towards the achievement of the following objectives:

- (1) An integrated multi-modal transportation system that services statewide needs and promotes the efficient, economical, safe, and convenient movement of people and goods.
- (2) A statewide transportation system consistent with planned growth objectives throughout the State.

(b) To achieve the transportation objectives, it shall be the policy of this State to:

- (1) Design, program, and develop a multi-modal system in conformance with desired growth and physical development as stated in this chapter.
- (2) Coordinate state, county, federal, and private transportation activities and programs toward the achievement of statewide objectives.
- (3) Encourage a reasonable distribution of financial responsibilities for transportation among participating governmental and private parties.
- (4) Provide for improved accessibility to shipping, docking, and storage facilities.
- (5) Promote a reasonable level and variety of mass transportation services that adequately meet statewide and community needs.
- (6) Encourage [the use of] transportation systems that serve [as a means of accommodating] to accommodate present and future development needs of communities.

- (7) [Promote] Encourage a variety of carriers to offer increased opportunities and advantages to inter-island movement of people and goods.
- (8) Increase the capacities of airport and harbor systems and support facilities to effectively accommodate transshipment and storage needs.
- (9) [Increase the ability] Encourage the development of transportation systems [to] and programs which would assist statewide economic growth and diversification.
- (10) Encourage the design and development of transportation systems sensitive to the needs of affected communities and the quality of Hawaii's natural environment.
- (11) Encourage safe and convenient use of low-cost, energy-efficient, non-polluting means of [intra-island] transportation."

SECTION 17. Section 226-18, Hawaii Revised Statutes, is amended to read as follows:

"[~~§226-18~~] **Objectives and policies for facility systems—[energy/utilities.] energy/telecommunications.** (a) Planning for the State's facility systems with regard to [energy/utilities] energy/telecommunication shall be directed towards the achievement of the following objectives:

- (1) Dependable, efficient, and economical statewide energy and [communication] telecommunication systems capable of supporting the needs of the people.
- (2) Increased energy self-sufficiency.

(b) To achieve the [energy/utilities] energy/telecommunication objectives, it shall be the policy of this State to[:] ensure the provision of adequate, reasonably priced, and dependable power and telecommunication services to accommodate demand.

(c) To further achieve the energy objectives, it shall be the policy of this State to:

- (1) [Accelerate] Support research and development [and] as well as promote the use of [new] renewable energy sources.
- [(2)] Provide adequate, reasonably priced, and dependable power and communication services to accommodate demand.
- [(2)] Ensure a sufficient supply of energy to enable power systems to support the demands of growth.
- [(4)] (3) Promote prudent use of power and fuel supplies through conservation measures including education[, conservation,] and energy-efficient practices[.] and technologies.
- [(5)] (4) Ensure that the development or expansion of power systems and sources adequately consider environmental, public health, and safety concerns, and resource limitations.
- [(6)] Promote the use of new energy sources.]

(d) To further achieve the telecommunication objective, it shall be the policy of this State to:

- [(7)] (1) Facilitate [the] research and development [and use of improved communications technology.] of telecommunication systems and resources.
- (2) Encourage public and private sector efforts to develop means for adequate, ongoing telecommunication planning.

- (3) Promote efficient management and use of existing telecommunication systems and services.
- (4) Facilitate the development of education and training of telecommunication personnel."

SECTION 18. Section 226-19, Hawaii Revised Statutes, is amended to read as follows:

"[[§226-19]] Objectives and policies for socio-cultural advancement-housing. (a) Planning for the State's socio-cultural advancement with regard to housing shall be directed towards achievement of the following objectives:

- (1) Greater opportunities for Hawaii's people to secure reasonably priced, safe, sanitary, livable homes located in suitable environments that satisfactorily accommodate the needs and desires of families and individuals.
- (2) The orderly development of residential areas sensitive to community needs and other land uses.
- (b) To achieve the housing objectives, it shall be the policy of this State to:
 - (1) Effectively accommodate the housing needs of Hawaii's people[, especially the elderly, handicapped, displacees of redevelopment areas, and newly formed households].
 - (2) Stimulate and promote feasible approaches that increase housing choices for low-income, moderate-income, and gap-group households.
 - (3) Increase homeownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.
 - (4) Promote appropriate improvement, rehabilitation, and maintenance of existing housing[.] units and residential areas.
 - (5) Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas.
 - (6) Facilitate the use of available vacant, developable, and underutilized urban lands [to accommodate the housing needs in various communities.] for housing.
 - (7) Foster a variety of lifestyles traditional to Hawaii through the design and maintenance of neighborhoods that reflect the culture and values of the community.
 - (8) Promote research and development of methods to reduce the cost of housing construction in Hawaii."

SECTION 19. Section 226-20, Hawaii Revised Statutes, is amended to read as follows:

"[[§226-20]] Objectives and policies for socio-cultural advancement-health. (a) Planning for the State's socio-cultural advancement with regard to health shall be directed towards achievement of the following objectives:

- (1) Fulfillment of basic individual health needs of the general public.
- (2) Maintenance of sanitary and environmentally healthful conditions in Hawaii's communities.

(b) To achieve the health objectives, it shall be the policy of this State to:

- (1) Provide adequate and accessible services and facilities for prevention and treatment of physical and mental health problems[.], including substance abuse.
- [(2) Provide effective short-term and long-term assistance to prevent, alleviate, or cope with mental health problems of individuals and families.
- (3)] (2) Encourage improved cooperation among public and private sectors in the provision of health care to accommodate the total health needs of individuals throughout the State.
- (3) Encourage public and private efforts to develop and promote statewide and local strategies to reduce health care and related insurance costs.
- (4) Foster an awareness of the need for personal health maintenance and preventive health care through education and other measures.
- (5) Provide programs, services, and activities that ensure environmentally healthful and sanitary conditions.
- (6) Improve the State's capabilities in preventing contamination by pesticides and other potentially hazardous substances through increased coordination, education, monitoring, and enforcement."

SECTION 20. Section 226-21, Hawaii Revised Statutes, is amended to read as follows:

"[]§226-21[] Objective and policies for socio-cultural advancement—education. (a) Planning for the State's socio-cultural advancement with regard to education shall be directed towards achievement of the objective of the provision of a variety of educational opportunities to enable individuals to fulfill their needs, responsibilities, and aspirations.

(b) To achieve the education objective, it shall be the policy of this State to:

- (1) Support educational programs and activities that enhance personal development, physical fitness, recreation, and cultural pursuits of all groups.
- (2) Ensure the provision of adequate and accessible educational services and facilities that are designed to meet individual and community needs.
- (3) [Increase the ability of education to promote an understanding of Hawaii's cultural heritage.] Provide appropriate educational opportunities for groups with special needs.
- (4) [Provide job preparation training for groups experiencing critical unemployment conditions.] Promote educational programs which enhance understanding of Hawaii's cultural heritage.
- (5) Provide higher educational opportunities that enable Hawaii's people to adapt to changing employment demands.
- (6) Assist individuals, especially those [who are disadvantaged in meeting job qualifications, through manpower] experiencing critical employment problems or barriers, or undergoing employment transitions, by providing appropriate employment training programs and other related [training] educational opportunities.
- (7) Promote programs and activities that facilitate the acquisition of basic skills, such as reading, writing, computing, listening, speaking, and reasoning.

- (8) Emphasize quality educational programs in Hawaii's institutions to promote academic excellence.
- (9) Support research programs and activities that enhance the education programs of the State."

SECTION 21. Section 226-22, Hawaii Revised Statutes, is amended to read as follows:

"[]§226-22[] **Objective and policies for socio-cultural advancement-social services.** (a) Planning for the State's socio-cultural advancement with regard to social services shall be directed towards the achievement of the objective of improved public and private social services and activities that [induce greater individual, family, and group initiative, self-reliance, and self-esteem.] enable individuals, families, and groups to become more self-reliant and confident to improve their well-being.

(b) To achieve the social service objective, it shall be the policy of the State to:

- (1) [Provide adequate services, facilities, and resources within the State's fiscal capacities to assist in alleviating hardship conditions of Hawaii's people.] Assist individuals, especially those in need of attaining a minimally adequate standard of living and those confronted by social and economic hardship conditions, through social services and activities within the State's fiscal capacities.
- (2) Promote coordination and [integration of] integrative approaches among public and private [services] agencies and programs to jointly address social problems that will enable individuals, families, and groups to deal effectively with social problems and to enhance their participation in society.
- (3) Facilitate the adjustment of new residents, especially recently arrived immigrants, into Hawaii's communities.
- (4) Promote alternatives to institutional care in the provision of long-term care for the elderly and disabled populations.
- (5) Support public and private efforts to prevent domestic abuse and child molestation, and assist victims of abuse and neglect.
- (6) Promote programs which assist people in need of family planning services to enable them to meet their needs."

SECTION 22. Section 226-23, Hawaii Revised Statutes, is amended to read as follows:

"[]§226-23[] **Objective and policies for socio-cultural advancement-leisure.** (a) Planning for the State's socio-cultural advancement with regard to leisure shall be directed towards the achievement of the objective of the adequate provision of resources to accommodate diverse cultural, artistic, and recreational needs for present and future generations.

(b) To achieve the leisure objective, it shall be the policy of this State to:

- (1) Foster and preserve Hawaii's multi-cultural heritage through supportive cultural, artistic, recreational, and humanities-oriented programs and activities.
- (2) Provide a wide range of activities and facilities to fulfill the [recreation] cultural, artistic, and recreational needs of all diverse and special groups[.] effectively and efficiently.

- (3) Enhance the enjoyment of recreational experiences through safety and security measures, educational opportunities, and improved facility design and maintenance.
- (4) Promote the recreational and educational potential of natural resources having scenic, open space, cultural, historical, geological, or biological values[.] while ensuring that their inherent values are preserved.
- (5) Ensure opportunities for everyone to use and enjoy Hawaii's recreational resources.
- (6) Assure the availability of sufficient resources to provide for future cultural, artistic, and recreational needs.
- (7) Provide adequate and accessible physical fitness programs to promote the physical and mental well-being of Hawaii's people.
- (8) Increase opportunities for appreciation and participation in the creative arts, including the literary, theatrical, [and musical arts.] visual, musical, folk, and traditional art forms.
- (9) Encourage the development of creative expression in the artistic disciplines to enable all segments of Hawaii's population to participate in the creative arts.
- (10) Assure adequate access to significant natural and cultural resources in public ownership."

SECTION 23. Section 226-24, Hawaii Revised Statutes, is amended to read as follows:

"[[]§226-24[]] Objective and policies for socio-cultural advancement-individual rights and personal well-being. (a) Planning for the State's socio-cultural advancement with regard to individual rights and personal well-being shall be directed towards achievement of the objective of [an] increased [individual capacity] opportunities and protection of individual rights to enable individuals to fulfill [personal] their socio-economic needs and aspirations.

(b) To achieve the individual rights and personal well-being objective, it shall be the policy of this State to:

- (1) Provide effective services and activities that protect individuals from criminal acts and unfair practices and that alleviate the consequences of criminal acts in order to foster a safe and secure environment.
- (2) [Enhance] Uphold and protect the national and state constitutional rights of every individual.
- (3) Assure access to, and availability of, legal assistance, consumer protection, and other [social justice] public services[.] which strive to attain social justice.
- (4) Ensure equal opportunities for individual participation in society."

SECTION 24. Section 226-25, Hawaii Revised Statutes, is amended to read as follows:

"[[]§226-25[]] Objective and policies for socio-cultural advancement-culture. (a) Planning for the State's socio-cultural advancement with regard to culture shall be directed toward the achievement of the objective of enhancement of cultural identities, traditions, values, customs, and arts of Hawaii's people.

to: (b) To achieve the culture objective, it shall be the policy of this State

- (1) Foster increased knowledge and understanding of Hawaii's ethnic and cultural heritages and the history of Hawaii.
- (2) Support activities and conditions that promote cultural values, customs, and arts that enrich the life styles of Hawaii's people[.] and which are sensitive and responsive to family and community needs.
- (3) Encourage increased awareness of the effects of proposed public and private actions on the integrity and quality of cultural and community life styles in Hawaii.
- (4) Encourage the essence of the aloha spirit in people's daily activities[.] to promote harmonious relationships among Hawaii's people and visitors."

SECTION 25. Section 226-26, Hawaii Revised Statutes, is amended to read as follows:

"[]§226-26[]] **Objectives and policies for socio-cultural advancement-public safety.** (a) Planning for the State's socio-cultural advancement with regard to public safety shall be directed towards the achievement of the following objectives:

- (1) Assurance of public safety and adequate protection of life and property for all people.
- (2) [Maintenance of adequate levels of statewide security, communication, and preparedness in case of civil disruptions, wars, natural disasters, and other major disturbances.] Optimum organizational readiness and capability in all phases of emergency management to maintain the strength, resources, and social and economic well-being of the community in the event of civil disruptions, wars, natural disasters, and other major disturbances.
- (3) Promotion of a sense of community responsibility for the welfare and safety of Hawaii's people.

(b) To achieve the public safety objectives, it shall be the policy of this State to:

- [(1)] Support law enforcement programs aimed at curtailing criminal activities.
- (2) Develop coordinated management programs for public safety and criminal justice throughout the State.
- [(3)] (1) Ensure that public safety programs are effective and responsive to community needs.
- [(4)] (2) Encourage increased community awareness and participation in public safety programs.
- [(5)] Emphasize improvements in social rehabilitation programs and facilities throughout the State.
- (6) Ensure that responsible organizations are in a proper state of readiness to respond to major war-related or natural disasters and civil disturbances at all times.]

(c) To further achieve public safety objectives related to criminal justice, it shall be the policy of this State to:

- (1) Support criminal justice programs aimed at preventing and curtailing criminal activities.
- (2) Develop a coordinated, systematic approach to criminal justice administration among all criminal justice agencies.

- (3) Provide a range of correctional resources which may include facilities and alternatives to traditional incarceration in order to address the varied security needs of the community and successfully reintegrate offenders into the community.
- (d) To further achieve public safety objectives related to emergency management, it shall be the policy of this State to:
 - (1) Ensure that responsible organizations are in a proper state of readiness to respond to major war-related, natural, or technological disasters and civil disturbances at all times.
 - (2) Enhance the coordination between emergency management programs throughout the State."

SECTION 26. Section 226-27, Hawaii Revised Statutes, is amended to read as follows:

"[]§226-27[] [Objective] Objectives and policies for socio-cultural advancement-government. (a) Planning the State's socio-cultural advancement with regard to government shall be directed towards the achievement of the following objectives [of efficient, effective, and responsive government services at all levels in the State of Hawaii.]:

- (1) Efficient, effective, and responsive government services at all levels in the State.
- (2) Fiscal integrity, responsibility, and efficiency in the state government and county governments.
- (b) To achieve the government [objective,] objectives, it shall be the policy of this State to:
 - (1) Provide for necessary public goods and services not assumed by the private sector.
 - (2) Pursue an openness and responsiveness in government that permits the flow of public information, interaction, and response.
 - (3) Ensure fiscal responsibility in government in Hawaii.
 - (4) (3) Minimize the size of government to that necessary to be effective.
 - (5) (4) Stimulate the responsibility in citizens to productively participate in government for a better Hawaii.
 - (6) (5) Assure that [public] government attitudes, actions, and services are sensitive to community needs and concerns.
 - (6) Provide for a balanced fiscal budget.
 - (7) Improve the fiscal budgeting and management system of the State.
 - (8) Promote the consolidation of state and county governmental functions to increase the effective and efficient delivery of government programs and services and to eliminate duplicative services wherever feasible."

SECTION 27. Section 226-28, Hawaii Revised Statutes, is repealed.

SECTION 28. Part III of chapter 226, Hawaii Revised Statutes, is amended by amending the title to read as follows:

"PART III. PRIORITY [DIRECTIONS] GUIDELINES"

SECTION 29. Section 226-102, Hawaii Revised Statutes, is amended to read as follows:

"[]§226-102[] Overall direction. The State [of Hawaii] shall strive to [ensure the availability of desired employment opportunities] improve the

quality of life for Hawaii's present and future population [in an environmentally and socially sound manner through the fostering of a balanced population and economic growth rate.] through the pursuit of desirable courses of action in five major areas of statewide concern which merit priority attention: economic development, population growth and land resource management, affordable housing, crime and criminal justice, and quality education."

SECTION 30. Section 226-103, Hawaii Revised Statutes, is amended to read as follows:

"§226-103 Economic priority guidelines. (a) Priority guidelines [in the area of general business and finance:] to stimulate economic growth and encourage business expansion and development to provide needed jobs for Hawaii's people and achieve a stable and diversified economy:

- (1) Stimulate the economy to provide needed jobs for Hawaii's people without stimulating unnecessary in-migration.
- (2) Support business expansion and development to achieve a stable and diversified economy.
- (3) (1) Seek [different] a variety of means to [assist new and existing businesses in obtaining loans.] increase the availability of investment capital for new and expanding enterprises.
- (4) (2) [Assist in] Encourage the expansion of technological research to assist industry development and support the development and commercialization of technological advancements.
- (5) Assist local producers in competing with mainland producers.
- (6) Lessen the financial burden on businesses.
- (7) Promote Hawaii as an attractive market for investment activities that benefit Hawaii's people.]
- (3) Improve the quality, accessibility, and range of services provided by government to business, including data and reference services and assistance in complying with governmental regulations.
- (4) Seek to ensure that state business tax and labor laws and administrative policies are equitable, rational, and predictable.
- (5) Streamline the building and development permit and review process, and eliminate or consolidate other burdensome or duplicative governmental requirements imposed on business, where public health, safety, and welfare would not be adversely affected.
- (6) Encourage the formation of cooperatives and other favorable marketing or distribution arrangements at the regional or local level to assist Hawaii's small-scale producers, manufacturers, and distributors.
- (7) Continue to seek legislation to protect Hawaii from transportation interruptions between Hawaii and the continental United States.
- (8) Provide public incentives and encourage private initiative to develop and attract industries which promise long-term growth potentials and which have the following characteristics:
 - (A) An industry that can take advantage of Hawaii's unique location and available physical and human resources.
 - (B) A clean industry that would have minimal adverse effects on Hawaii's environment.
 - (C) An industry that is willing to hire and train Hawaii's people to meet the industry's labor needs.
 - (D) An industry that would provide reasonable income and steady employment.

- (9) Support and encourage, through educational and technical assistance programs and other means, expanded opportunities for employee ownership and participation in Hawaii business.
- (10) Enhance the quality of Hawaii's labor force and develop and maintain career opportunities for Hawaii's people through the following actions:
 - (A) Expand vocational training in diversified agriculture, aquaculture, and other areas where growth is desired and feasible.
 - (B) Encourage more effective career counseling and guidance in high schools and post-secondary institutions to inform students of present and future career opportunities.
 - (C) Allocate educational resources to career areas where high employment is expected and where growth of new industries is desired.
 - (D) Promote career opportunities in all industries for Hawaii's people by encouraging firms doing business in the State to hire residents.
 - (E) Promote greater public and private sector cooperation in determining industrial training needs and in developing relevant curricula and on-the-job training opportunities.
 - (F) Provide retraining programs and other support services to assist entry of displaced workers into alternative employment.
- (b) Priority guidelines [for] to promote the economic health and quality of the visitor industry:
 - (1) [Foster a social] Promote visitor satisfaction by fostering an environment which enhances the Aloha Spirit [by minimizing] and minimizes inconveniences to Hawaii's [people] residents and visitors.
 - (2) Protect the economic health and quality of the visitor industry.
 - (3) [Maintain or enhance the quality of existing and future] Encourage the development and maintenance of well-designed, adequately serviced hotels and resort destination areas which [conform with regional carrying capacities and state policies providing] are sensitive to neighboring communities and activities and which provide for adequate shoreline setbacks and beach access.
 - (4) [Provide] Support appropriate capital improvements to enhance the quality of existing resort destination areas and provide incentives to encourage [existing hotel owners to upgrade,] investment in upgrading, repair, and [maintain] maintenance of visitor facilities.
 - (5) [Preserve] Encourage visitor industry practices and activities which respect, preserve, and enhance Hawaii's significant natural [environmental and], scenic, historic, and cultural [sites.] resources.
 - (6) (5) Develop and maintain career opportunities in the visitor industry for Hawaii's people, with emphasis on managerial positions.
 - (7) Adopt a tourism functional plan and management organization to implement tourism plan policies.

- (8)] (6) [Coordinate effective] Support and coordinate tourism promotion abroad[.] to enhance Hawaii's share of existing and potential visitor markets.
- [(9) Maintain and enhance visitor satisfaction.
- (10)] (7) Maintain and encourage a more favorable resort investment climate consistent with the objectives of this chapter.
- [(11)] (8) Support law enforcement activities that provide a safer environment for both visitors and residents alike.
- (c) Priority guidelines [for] to promote the continued viability of the
sugar and pineapple industries:
 - (1) Provide adequate agricultural lands to [ensure] support the economic viability of the sugar and pineapple industries.
 - (2) Continue efforts to maintain federal support to provide stable sugar prices high enough to allow profitable operations in Hawaii.
 - (3) Support research and development, as appropriate, to improve the quality and production of sugar and pineapple crops.
- (d) Priority guidelines [for] to promote the growth and development of
diversified agriculture and aquaculture:
 - (1) [Seek to protect prime] Identify, conserve, and protect agricultural and aquacultural lands [through] of importance and initiate affirmative and comprehensive programs[.] to promote economically productive agricultural and aquacultural uses of such lands.
 - [(2) Seek federal assistance to increase water supply and to improve transmission, storage, and irrigation facilities to promote diversified agriculture and aquaculture.
 - (3) Assist small independent farmers in securing land and loans.]
 - [(2) Assist in providing adequate, reasonably priced water for agricultural activities.
 - [(3) Encourage public and private investment to increase water supply and to improve transmission, storage, and irrigation facilities in support of diversified agriculture and aquaculture.
 - (4) Assist in the formation and operation of production and marketing associations and cooperatives to reduce production and marketing costs.
 - (5) Encourage and assist with the development of a waterborne and airborne freight and cargo system capable of meeting the needs of Hawaii's agricultural community.
 - [(6) Encourage the use of public and private resources to develop agricultural and aquacultural activities which have economic growth potential.
 - (7) Explore new agricultural industries and encourage the expansion of existing agricultural industries that can provide jobs and profitable long-term use of land.
 - [(8)] (6) Seek favorable freight rates for Hawaii's agricultural products from interisland and overseas transportation operators.
 - [(7) Encourage the development and expansion of agricultural and aquacultural activities which offer long-term economic growth potential and employment opportunities.
 - [(9)] (8) Continue the development of agricultural parks[.] and other programs to assist small independent farmers in securing agricultural lands and loans.
 - [(10)] Expand vocational training programs in agriculture and aquaculture.

- (11) Assist in providing adequate, reasonably priced water for existing agricultural activities.
- (12)] (9) Require agricultural uses in agricultural subdivisions and closely monitor the uses in these subdivisions.
- [(13) Encourage the expansion of the statewide agricultural base through the promotion of products for export and local consumption.
- (e) Priority guideline for developing economic activities to encourage the development of industries which promise long-term growth potentials and which have the following characteristics:
 - (1) An industry that can take advantage of Hawaii's unique location and available manpower resources.
 - (2) A clean industry that would have minimal effects on Hawaii's environment.
 - (3) An industry that is willing to hire and train Hawaii's people to meet the industry¹ labor needs.
 - (4) An industry that would provide reasonable income and steady employment.
 - (f) Priority guidelines for the construction industry:
 - (1) Promote a consistent and stable level of construction activity.
 - (2) Explore alternatives for more effective management of the growth and development of the State's construction industry.
 - (3) Encourage the streamlining of the building and development permit and review process.
 - (g) Priority guideline for the shipping industry shall be to continue to seek legislation to protect Hawaii from shipping interruptions between Hawaii and the continental United States.
 - (h)] (e) Priority guidelines for water use and development:
 - (1) [~~Encourage~~] Maintain and improve water conservation programs to reduce the [~~per capita~~] overall water consumption rate [through education and the promotion of conservation awareness].
 - [(2) Assist agriculture in determining the feasibility of using wastewater effluent to irrigate crops.
 - (3) Encourage restriction of new urban development in areas where water supply is insufficient for both agricultural and domestic uses.
 - (4)] (2) [~~Pursue~~] Encourage the improvement of irrigation technology [to increase the effective and efficient use of water.] and promote the use of non-potable water for agricultural and landscaping purposes.
 - [(5)] (3) Increase the support for research and development of economically feasible alternative water sources.
 - (4) Explore alternative funding sources and approaches to support future water development programs and water system improvements.
 - [(i)] (f) Priority guidelines for energy use and development:
 - (1) Encourage the development, demonstration, and commercialization of [alternate] renewable energy sources.
 - (2) [~~Encourage development of a program to promote conservation of energy use in the State.~~] Initiate, maintain, and improve energy conservation programs aimed at reducing energy waste and increasing public awareness of the need to conserve energy.

- [(3) Encourage future urbanization into easily serviceable, more compact, concentrated developments in existing urban areas wherever feasible to maximize energy conservation.
- (4) Encourage consumer education programs to reduce energy waste and to increase awareness for the need to conserve energy.
- (5) [(3) [Encourage] Provide incentives to encourage the use of energy conserving technology [and appliances] in [homes] residential, industrial, and other buildings.
- [(6) Explore possible incentives to encourage the use of alternate energy sources in homes and other buildings.
- (7) [(4) Encourage the development and use of energy conserving and cost-efficient transportation systems.
- [(j) Priority guidelines for manpower training and development:
- (1) Encourage more effective career counseling and guidance in high schools and post-secondary institutions to inform students of present and future career opportunities.
- (2) Encourage the allocation of educational resources to career areas where high employment growth is expected.
- (3) Encourage the expansion of technological research to assist industry development.
- (4) Pursue the establishment of Hawaii's university as the research and training center of the Pacific.]”

SECTION 31. Section 226-104, Hawaii Revised Statutes, is amended to read as follows:

“§226-104 Population growth and [distribution] land resources priority guidelines. (a) Priority guidelines to effect desired statewide growth[:] and distribution:

- (1) [Manage] Encourage planning and resource management to insure that population growth rates throughout the State are consistent with available and planned resource capacities[.] and reflect the needs and desires of Hawaii's people.
- [(2) Encourage hiring of Hawaii's people by firms doing business in the State.
- (3) Seek federal legislation which would provide federal moneys for social programs, training, housing, and public services to each state proportionate to the number of immigrants received by the State.
- (4) Seek to provide for adequate housing to meet the needs of Hawaii's people without encouraging an additional influx of people.
- (5) Encourage continued low birth rate among Hawaii's population.
- (b) Priority guidelines to influence statewide growth distribution:
- (1) [(2) Manage a growth rate for Hawaii's economy that will parallel future employment needs for Hawaii's people.
- [(2) Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographical area.
- (3) Encourage the location of state and federal agencies on neighbor islands, as appropriate.]
- (3) Ensure that adequate support services and facilities are provided to accommodate the desired distribution of future growth throughout the State.

- (4) Encourage major state and federal investments and services to promote economic development and private investment to the neighbor islands, as appropriate.
- [(5) Encourage CIP expenditures, public services, and housing developments that recognize the needs and preferences of the counties.
- (6)] (5) Explore the possibility of making available urban land, low-interest loans, and housing subsidies to encourage the provision of housing to support selective economic and population growth on the neighbor islands.
- [(7)] (6) Seek federal funds and other funding sources outside the [state] State for research, program development, and training to provide future employment opportunities on the neighbor islands.
- (7) Support the development of high technology parks on the neighbor islands.
- [(c)] (b) Priority guidelines for regional growth distribution[:] and land resource utilization:
 - [(1) Pursue rehabilitation of appropriate urban areas.
 - (2)] (1) Encourage urban growth primarily to existing urban areas where adequate public facilities are already available or can be provided with reasonable public expenditures[. Secondly, encourage urban growth], and away from areas where other important benefits are present, such as protection of [valuable] important agricultural land or preservation of lifestyles.
 - [(3) In order to preserve green belts, give priority to state capital expenditures that encourage locating urban development within existing urban areas in accordance with the following: funding for transportation activities that serve the needs of existing urban areas; allocation of water for urban uses to areas within urban areas; and wherever possible, locate state buildings and facilities within urban centers close to public transportation; except where compelling public interest dictates development of a non-contiguous new urban core.
 - (4) Direct future urban development away from critical environmental areas or impose mitigating measures so that negative impacts on the environment would be minimal.
 - (5) Identify critical environmental areas in Hawaii to include but not be limited to the following: watershed and recharge areas; wildlife habitats (on land and in the ocean); areas with endangered species of plants and wildlife; natural streams and water bodies; scenic and recreational shoreline resources; open space and natural areas; historic and cultural sites; areas particularly sensitive to reduction in water and air quality; and scenic resources.
 - (6) Encourage the location of new industrial development to existing and planned urban areas.
 - (7) Seek participation from the private sector for the cost of building infrastructure, utilities, and open spaces.
 - (8) Encourage the identification of all areas within the respective jurisdictions where priority should be given to preserving rural character and lifestyle.
 - (9) Coordinate planning for wastewater and solid waste disposal with state and county growth objectives.]

- (2) Make available marginal or non-essential agricultural lands for appropriate urban uses while maintaining agricultural lands of importance in the agricultural district.
- (3) Restrict development when drafting of water would result in exceeding the sustainable yield or in significantly diminishing the recharge capacity of any groundwater area.
- (4) Encourage restriction of new urban development in areas where water is insufficient from any source for both agricultural and domestic use.
- (5) In order to preserve green belts, give priority to state capital-improvement funds which encourage location of urban development within existing urban areas except where compelling public interest dictates development of a non-contiguous new urban core.
- (6) Seek participation from the private sector for the cost of building infrastructure and utilities, and maintaining open spaces.
- (7) Pursue rehabilitation of appropriate urban areas.
- (8) Support the redevelopment of Kakaako into a viable residential, industrial, and commercial community.
- (9) Direct future urban development away from critical environmental areas or impose mitigating measures so that negative impacts on the environment would be minimized.
- (10) Identify critical environmental areas in Hawaii to include but not be limited to the following: watershed and recharge areas; wildlife habitats (on land and in the ocean); areas with endangered species of plants and wildlife; natural streams and water bodies; scenic and recreational shoreline resources; open space and natural areas; historic and cultural sites; areas particularly sensitive to reduction in water and air quality; and scenic resources.
- (11) Identify all areas where priority should be given to preserving rural character and lifestyle.
- (12) Utilize Hawaii's limited land resources wisely, providing adequate land to accommodate projected population and economic growth needs while ensuring the protection of the environment and the availability of the shoreline, conservation lands, and other limited resources for future generations.
- (13) Protect and enhance Hawaii's shoreline, open spaces, and scenic resources."

SECTION 32. Section 226-105, Hawaii Revised Statutes, is amended to read as follows:

"§226-105 [Hawaii's land resources. Priority guidelines for the use of Hawaii's resources:

- (1) Preserve and improve shoreline open spaces and scenic resources.
- (2) Seek to utilize Hawaii's limited land resources wisely in order to insure the protection of the environment and the availability of the shoreline, conservation lands and other limited resources for future generations.
- (3) Seek to accommodate urban growth in existing urban areas while maintaining agricultural lands in agricultural designation.]

Crime and criminal justice. Priority guidelines in the area of crime and criminal justice:

- (1) Support law enforcement activities and other criminal justice efforts that are directed to provide a safer environment.

- (2) Target state and local resources on efforts to reduce the incidence of violent crime and on programs relating to the apprehension and prosecution of repeat offenders.
- (3) Support community and neighborhood program initiatives that enable residents to assist law enforcement agencies in preventing criminal activities.
- (4) Reduce overcrowding or substandard conditions in correctional facilities through a comprehensive approach among all criminal justice agencies which may include sentencing law revisions and use of alternative sanctions other than incarceration for persons who pose no danger to their community.
- (5) Provide a range of appropriate sanctions for juvenile offenders, including community-based programs and other alternative sanctions.
- (6) Increase public and private efforts to assist witnesses and victims of crimes and to minimize the costs of victimization."

SECTION 33. Chapter 226, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"§226-106 Affordable housing. Priority guidelines for the provision of affordable housing:

- (1) Seek to use marginal or non-essential agricultural land and public land to meet housing needs of low and moderate-income and gap-group households.
- (2) Encourage the use of alternative construction and development methods as a means of reducing production costs.
- (3) Improve information and analysis relative to land availability and suitability for housing.
- (4) Create incentives for development which would increase home ownership and rental opportunities for Hawaii's low and moderate-income households, gap-group households, and residents with special needs.
- (5) Encourage continued support for government or private housing programs that provide low interest mortgages to Hawaii's people for the purchase of initial owner-occupied housing.
- (6) Encourage public and private sector cooperation in the development of rental housing alternatives.
- (7) Encourage improved coordination between various agencies and levels of government to deal with housing policies and regulations."

SECTION 34. Chapter 226, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"§226-107 Quality education. Priority guidelines to promote quality education:

- (1) Pursue effective programs which reflect the varied district, school, and student needs to strengthen basic skills achievement.
- (2) Continue emphasis on general education "core" requirements to provide common background to students and essential support to other university programs.
- (3) Initiate efforts to improve the quality of education by improving the capabilities of the education work force.

- (4) Promote increased opportunities for greater autonomy and flexibility of educational institutions in their decision-making responsibilities.
- (5) Increase and improve the use of information technology in education and encourage programs which increase the public's awareness and understanding of the impact of information technologies on our lives.
- (6) Pursue the establishment of Hawaii's public and private universities and colleges as research and training centers of the Pacific.
- (7) Develop resources and programs for early childhood education.
- (8) Explore alternatives for funding and delivery of educational services to improve the overall quality of education.
- (9) Strengthen and expand educational programs and services for students with special needs."

SECTION 35. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 36. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 277

H.B. NO. 2114-86

A Bill for an Act Relating to Hearing Aid Dealers and Fitters.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 451A-14.1, Hawaii Revised Statutes, is amended to read as follows:

"§451A-14.1 Requirement of authorization from physician or otorhinolaryngologist; authorization records. (a) No person engaged in the fitting and selling of hearing aids shall sell, barter, offer to sell or otherwise knowingly establish a commercial relationship with a potential purchaser without first obtaining and maintaining in [his] the dealer's possession written authorization by a physician that the purchaser or potential purchaser has been examined by [him] the physician and that [he] the physician has prescribed or approved a hearing device[.]; provided[, however,] that in the case of a child ten years of age or under, [such] the written authorization must be by an otorhinolaryngologist.

(b) For the purposes of subsection (a) [of this section, such] the written authorization must be signed by the physician or otorhinolaryngologist within [ninety days] six months prior to the date of sale, barter, offer, or commencement of a commercial relationship [as referred to above]; provided[, however,] that the [ninety day] six-month limit [provided in this subsection] shall not apply if the written authorization of the physician or otorhinolaryngologist states that a return visit of the patient is not necessary for subsequent purchases of a hearing device.

(c) For the purposes of subsection (a) the hearing aid dealer and fitter may offer persons eighteen years of age or older an opportunity to waive the requirement of a medical examination if the hearing aid dealer and fitter:

- (1) Informs the prospective user that the exercise of the waiver is not in the user's best health interest;
- (2) Does not in any way actively encourage the prospective user to waive the medical examination; and
- (3) Affords the prospective user the opportunity to sign the following statement:
"I have been advised by (hearing aid dealer and fitter's name) that the Board of Hearing Aid Dealers and Fitters has determined that my best health interest would be served if I had a medical examination by a physician (preferably a physician who specializes in diseases of the ear) before purchasing a hearing aid. I do not wish a medical examination before purchasing a hearing aid."

[(c)] (d) Every hearing aid dealer and fitter licensed pursuant to this chapter shall keep a suitable book or file, or a microfilm of [such] the book or file, in which shall be preserved, for a period of not less than five years, every authorization by physicians or otorhinolaryngologists received pursuant to this section[.] and every statement executed in accordance with subsection (c)(3). The book, file, or microfilm of [such] the authorizations and statements shall at all times be open to inspection by the board of hearing aid dealers and fitters and other law enforcement agencies."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 278

H.B. NO. 2138-86

A Bill for an Act Relating to the Transfer of the Hoomana School Program from the University of Hawaii to the Department of Social Services and Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to authorize the transfer of the Hoomana School program (UOH 859, Social Rehabilitation of Confined Adults) from the University of Hawaii to the department of social services and housing.

SECTION 2. The transfer of the Hoomana School program from the University of Hawaii to the department of social services and housing shall be accomplished in accordance with plans to be prepared jointly by the chancellor for the community colleges of the University of Hawaii and the director of social services, and approved by the governor. No employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act; provided that subsequent changes in status may be made pursuant to the laws of the State. Upon the transfer of the Hoomana School program, as provided by this Act, all records, equipment, files, supplies,

contracts, books, papers, documents, appropriations, and other property theretofore made, used, acquired, or held by the University of Hawaii shall be transferred to the department of social services and housing.

SECTION 3. All laws or parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform herewith.

SECTION 4. This Act shall take effect on July 1, 1986.

(Approved May 29, 1986.)

ACT 279

H.B. NO. 2191-86

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-82, Hawaii Revised Statutes, is amended to read as follows:

“§514A-82 Contents of bylaws. The bylaws shall provide for at least the following:

- (1) Board of directors:
 - (A) The election of a board of directors;
 - (B) The number of persons constituting the board; provided that condominiums with more than one hundred individual apartment units shall have an elected board of not less than nine members unless not less than seventy-five per cent of all apartment owners vote by mail ballot, or at a special or annual meeting, to reduce the minimum number of directors;
 - (C) That for the initial term of office, directors shall serve for a term of three years or the term as specified by the bylaws or until their successors have been elected or appointed;
 - (D) The powers and duties of the board;
 - (E) The compensation, if any, of the directors;
 - (F) The method of removal from office of directors; [and] that at any regular or special meeting of the apartment owners, any one or more members of the board of directors may be removed with or without cause by a majority of the apartment owners and a successor shall then and there be elected for the remainder of the term to fill the vacancy thus created. If such removal and replacement is to occur at a special association meeting, the call for such meeting shall be by the president or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the apartment owners; and provided further that if the secretary or managing agent does not send out the notices for the special meeting within fourteen days of receipt of the petition, the petitioners shall send out the notices for the special meeting. Except as otherwise provided herein, such meeting and the procedures adopted for the removal and replacement from office of directors shall be conducted in

- accordance with the bylaws of the association pertaining to the removal, replacement, and election of directors; and
- (G) Whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.
 - (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners and that votes allocated to any area which constitutes a common element under section 514A-13(h) shall not be cast at any association meeting, whether or not it is so designated in the declaration.
 - (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners.
 - (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
 - (5) Election of a treasurer who shall keep the financial records and books of account.
 - (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges.
 - (7) Manner of collecting common expenses, expenses, costs, and fees recoverable by the association under section 514A-94, and any penalties and late charges.
 - (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
 - (9) Method of adopting and amending administrative rules and regulations governing the details of the operation and use of the common elements.
 - (10) Such restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners.
 - (11) The bylaws may be amended at any time by the vote or written consent of not less than sixty-five per cent of all apartment owners; provided that each one of the particulars set forth in this section shall always be embodied in the bylaws[.]; and provided further that proposed bylaws with the rationale for the proposal may be submitted by the board of directors or by a volunteer apartment owners' committee. If submitted by such a committee, it shall be accompanied by a petition signed by not less than twenty-five per cent of the apartment owners. The proposed bylaws, rationale, and ballots for voting on the proposed bylaws shall be mailed to the owners for approval without change within fourteen days of the receipt of the petition by the board of directors. Failure of the board of directors to comply with these provisions shall validate the vote taken by the volunteer apartment owners' committee provided the volunteer owners' commit-

tee has complied with all other applicable rules on voting for bylaw amendments.

- (12) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request.
- (13) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. There shall not be more than one representative on the board of directors from any one apartment.
- (14) A director shall not cast any proxy vote at any board meeting, nor shall a director vote at any board meeting on any issue in which the director has a conflict of interest.
- (15) No resident manager of a condominium shall serve on its board of directors.
- (16) The board of directors shall meet at least once a year.
- (17) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the association, if any.
- (18) No resident manager, or managing agent shall solicit, for use by such manager or managing agent, any proxies from any apartment owner of the association of owners which employs him, nor shall he cast any proxy vote at any association meeting except for the purpose of establishing a quorum. No member of a board of directors who uses association funds to solicit proxies[,] shall cast any of these proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors[,] and the board first posts notice of its intent to solicit proxies in prominent locations within the project at least thirty days prior to its solicitation of proxies; provided that if the board receives within seven days of the posted notice a request by any owner for use of association funds to solicit proxies accompanied by a statement, the board shall:
 - (A) Mail to all owners a proxy form containing either the names of all owners who have requested the use of association funds for soliciting proxies accompanied by their statements;
or
 - (B) Mail to all owners a proxy form containing no names, but accompanied by a list of names of all owners who have requested the use of association funds for soliciting proxies and their statements.

The statement shall not exceed one hundred words, indicating the owner's qualifications to serve on the board and reasons for wanting to receive proxies.

- (19) All association and board of directors meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order.
- (20) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors.
- (21) Notice of the annual board meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to the meeting.
- (22) Penalties chargeable against persons for violation of the covenants, conditions, or restrictions set forth in the declaration, or of the bylaws and administrative rules adopted pursuant thereto, method of determination of violations, and manner of enforcing such penalties, if any."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 280

H.B. NO. 2199-86

A Bill for an Act Making an Appropriation for the Relocation and Expansion of Saint Francis Hospital's Renal Dialysis Facility at Maui Memorial Hospital.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general fund of the State of Hawaii as a grant-in-aid the sum of \$350,000, or so much thereof as may be necessary for fiscal year 1986-1987, to Saint Francis Hospital, for the relocation and expansion of Saint Francis Hospital's renal dialysis facility on the grounds of Maui Memorial Hospital.

SECTION 2. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved May 29, 1986.)

ACT 281

H.B. NO. 2209-86

A Bill for an Act Making an Appropriation to Support Main Street Task Force.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$25,000, or so much thereof as may be necessary for fiscal year 1986-1987, for the purpose of supporting the Main Street Task

Force organized to bring life and prosperity to the business districts of rural towns and urban neighborhoods.

SECTION 2. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved May 29, 1986.)

ACT 282

H.B. NO. 2282-86

A Bill for an Act Relating to the Pesticides Advisory Committee.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 149A-51, Hawaii Revised Statutes, is amended to read as follows:

“§149A-51 **Advisory committee.** There shall be an advisory committee on pesticides composed of but not limited to the chairman, or [his] the chairman's designated representative, who shall head the committee and one representative each from the department of health, department of land and natural resources, University of Hawaii [agricultural experiment station, University of Hawaii cooperative extension service,] college of tropical agriculture and human resources, [state environmental organization,] sugar industry, pineapple industry, [livestock industry,] Hawaii farm bureau federation, [diversified crop industry,] pesticide industry, structural pest control industry, an environmental organization, a citizen group, and [three] one at-large [members.] public member. Members of the advisory committee shall be appointed by the governor from a list of persons recommended by the respective agencies and industries in accordance with section 26-34. The committee shall advise and assist the department in developing or revising laws and [regulations] rules to carry out and effectuate the purposes of this chapter and in advising the department in pesticide problems.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 283

H.B. NO. 2395-86

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For all taxable years beginning after December 31, [1984,] 1985, as used in this chapter “Internal Revenue Code” means subtitle A, chapter 1 of the federal Internal Revenue Code of 1954 as amended as of December 31, [1984,] 1985, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income except those

provisions of the Internal Revenue Code and federal Public Law which pursuant to this chapter, this section, and sections 235-2.4 and 235-2.5 do not apply or are otherwise limited in application.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine (1) the basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978, and (2) gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1985.

(Approved May 29, 1986.)

ACT 284

H.B. NO. 2436-86

A Bill for an Act Relating to Environmental Quality.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 275, Session Laws of Hawaii, 1984, as amended by Act 127, Session Laws of Hawaii, 1985, is amended by amending subsection (f) of Section 1 to read as follows:

"(f) Advisory committee. There shall be established a technical advisory committee on pesticides to assist and advise the office in carrying out the purposes of this Act. The committee shall be composed of the chairperson of the environmental council, one representative each from the department of agriculture, the department of health, the department of land and natural resources, the Honolulu board of water supply, and the University of Hawaii, and five at-large members representing a mixture of disciplines and including at least one member each from the U.S. military in Hawaii, the agricultural industry, the structural pest control industry, an environmental organization, and a community organization. Members of the advisory committee other [that] than¹ the military representative shall be appointed by the governor in accordance with section 26-34, Hawaii Revised Statutes. The representative of the U.S. military shall be invited to serve without necessity of appointment by the governor. The committee shall be chaired by the director or the director's designated representative."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

Note

1. So in original.

ACT 285

H.B. NO. 2483-86

A Bill for an Act Relating to Family Court Jurisdiction.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 571-14, Hawaii Revised Statutes, is amended to read as follows:

“§571-14 Jurisdiction; adults. The court shall have exclusive original jurisdiction:

- (1) To try any offense committed against a child by the child's parent or guardian or by any other person having the child's legal or physical custody, and any violation of section 707-726, 707-727, 709-902, 709-903, 709-904, 709-905, 709-906, or 298-12, whether or not included in other provisions of this paragraph or paragraph (2).
- (2) To try any adult charged with:
 - (A) Deserting, abandoning, or failing to provide support for any person in violation of law;
 - (B) An offense, other than a felony, against the person of the defendant's husband or wife;
 - (C) Any violation of a domestic abuse protective order issued pursuant to chapter 586; or
 - (D) Any violation of an order issued by a family court judge.

In any case within paragraph (1) or (2) of this section the court may, in its discretion, waive its jurisdiction over the offense charged.

- (3) In all proceedings under chapter 580, and in all proceedings under chapter 584.
- (4) In proceedings under chapter 575, the Uniform Desertion and Nonsupport Act, and under chapter 576, the Uniform Reciprocal Enforcement of Support Act.
- (5) For commitment of an adult alleged to be mentally defective or mentally ill.
- (6) In all proceedings for support between parent and child or between husband and wife, and in all proceedings to appoint a guardian of the person of an adult.
- (7) In all proceedings for waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in section 571-22.
- (8) In all proceedings under chapter 586, Domestic Abuse Protective Orders.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 286

H.B. NO. 2599-86

A Bill for an Act Relating to Motor and Other Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-172, Hawaii Revised Statutes, is amended to read as follows:

"§286-172 Furnishing of information. (a) Subject to authorization granted by the chief justice with respect to the traffic records of the violations bureaus of the district courts and of the circuit courts, the director of transportation shall furnish information contained in the statewide traffic records system in response to:

- (1) Any request from a state, a political subdivision of a state, or a federal department or agency, or any other authorized person pursuant to rules adopted by the director of transportation under chapter 91;
- (2) Any request from a person having a legitimate reason, as determined by the director, as provided under the rules adopted by the director under paragraph (1) [above], to obtain the information for verification of vehicle ownership, traffic safety programs, or for research or statistical reports; or
- (3) Any request from a person required or authorized by law to give written notice by mail to owners of vehicles.

(b) Any person requesting information contained in the statewide traffic records system under subsection (a)(2) shall file an affidavit with the director stating the reasons for obtaining the information and making assurances that the information will be used only for such reasons, that individual identities will be properly protected, and that the information will not be used to compile a list of individuals for the purposes of any commercial solicitation by mail or otherwise, or the collection of delinquent accounts or any other purpose not allowed or provided for by the rules.

(c) The information provided to any person qualifying to receive information under subsection (a)(2) shall be provided for a fee and under such conditions as set by the director pursuant to rules adopted by the director under chapter 91. The director shall require the person receiving the information to file with the director a corporate surety bond in favor of the State in [a penal sum to be determined by the director] the penal sum of not more than \$70,000, conditioned upon the full and faithful compliance of the person receiving the information with the terms and conditions of the affidavit and the conditions set by the director. Any person otherwise qualified to receive information under subsection (a)(2) and who complies with the provisions of this section may receive all the information in the motor vehicle registration file if the person either provides information to or performs recalls on behalf of manufacturers of motor vehicles as authorized by the federal government or as deemed necessary by a manufacturer in order to protect the public health, safety, and welfare[.] or to make a free correction of a manufacturing deficiency.

(d) Any person receiving information pursuant to [subsections] subsection (a)(2) or [(a)](3) shall hold harmless the State and any agency thereof from all claims for improper use or release of such information."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

ACT 287

H.B. NO. 2656-86

A Bill for an Act Relating to Names.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 338-21, Hawaii Revised Statutes, is amended to read as follows:

“§338-21 Legitimation. (a) All children born out of wedlock, irrespective of the marriage of either parent to another, become legitimate (1) on the marriage of the parents with each other, (2) on the voluntary, written acknowledgment of paternity by the father and mother, or (3) on establishment of the parent and child relationship under chapter 584, and are entitled to the same rights as those born in wedlock and shall take the [surname] name so stipulated by their parents or, if the parents do not agree on the [surname,] name, shall take the [surname] name specified by a court of competent jurisdiction to be the [surname] name that is in the best interests of the child. If legitimation is accomplished before the original certificate of birth is filed with the department of health, the original certificate of birth shall contain the name so stipulated. The child or children or the parents thereof may petition the department of health to issue a new original certificate of birth, and not a duplicate of the original certificate that has been amended, altered, or modified, in the new name of the legitimated child, and the department shall issue the new original certificate of birth upon being satisfied that the child or children has or have been legitimated. As used in this section “name” includes the first name, middle name or last name.

(b) The evidence upon which the new original certificate is made, and the superceded original certificate, shall be sealed and filed and may be opened only upon order of a court of record.

(c)¹ The legitimation of a child pursuant to subsection (a)(2) or (a)(3) of this section shall not preclude a subsequent legitimation.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

Note

1. “(c)” should be underscored.

ACT 288

H.B. NO. 2714-86

A Bill for an Act Relating to Unemployment Compensation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 383-10, Hawaii Revised Statutes, is to read as follows:

“§383-10 Definition of wages. As used in this chapter, unless the context clearly requires otherwise, “wages”, subject to section 383-11, means all remuneration for services from whatever source, including commissions and bonuses, tips or gratuities paid directly to an individual by a customer of

the employer and reported to the employer, and the cash value of all remuneration in any medium other than cash[, but not including tips or gratuities paid directly to an individual by a customer of his employer and not accounted for by the individual to his employer]. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the department of labor and industrial relations."

SECTION 2. Section 385-2, Hawaii Revised Statutes, is amended by amending the definition of "wages" to read as follows:

"(7) "Wages" means all remuneration for services from whatever source, including commissions and bonuses, [and] remuneration from self-employment, tips or gratuities paid directly to an individual by a customer of the employer and reported to the employer for payroll tax deduction purposes, and the cash value of all remuneration in any medium other than cash[, but not including tips or gratuities paid directly to an individual by a customer of his employer and not accounted for by the individual to his employer]. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the director. For the purposes of this chapter "wages" does not include the amount of payment of¹ remuneration set forth in section 383-11."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 1987.

(Approved May 29, 1986.)

Note

1. So in original.

ACT 289

H.B. NO. 2760-86

A Bill for an Act Relating to Attachment and Execution.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 651, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§651- Pension money exempt. The right of a debtor to a pension, annuity, retirement or disability allowance, death benefit, any optional benefit, or any other right accrued or accruing under any retirement plan or arrangement described in section 401(a), 403(a), 403(b), 408, 409 (as in effect prior to January 1, 1984), 414(d), or 414(e) of the Internal Revenue Code of 1954, as amended, or any fund created by the plan or arrangement, shall be exempt from attachment, execution, seizure, the operation of bankruptcy or insolvency laws under 11 U.S.C. section 522(b), or under any legal process whatever. However, this section shall not apply to (1) a "qualified domestic relations order" as defined in section 206(d) of the Employee Retirement Security Act of 1974, as amended, or in section 414(p) of the Internal Revenue Code of 1954, as amended, and (2) contributions made to a plan or arrangement within the three years before the date a debtor files for bankruptcy, whether voluntary or involuntary, or within three years before the date a civil action is initiated against the debtor, except for contributions to a

retirement plan established by state statute if the effect would be to eliminate a state employee's retirement service credit."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 290

S.B. NO. 1595-86

A Bill for an Act Relating to Geothermal Resource Subzones.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 205-5.1, Hawaii Revised Statutes, is amended to read as follows:

"§205-5.1 Geothermal resource subzones. (a) Geothermal resource subzones may be designated within the urban, rural, agricultural, and conservation land use districts established under section 205-2. Only those areas designated as geothermal resource subzones may be utilized for geothermal development activities in addition to those uses permitted in each land use district under this chapter. Geothermal development activities may be permitted within urban, rural, agricultural, and conservation land use districts in accordance with this chapter. "Geothermal development activities" means the exploration, development, or production of electrical energy from geothermal resources[.] and direct use applications of geothermal resources.

(b) The board of land and natural resources shall have the responsibility for designating areas as geothermal resource subzones as provided under section 205-5.2; except that the total area within an agricultural district which is the subject of a geothermal mining lease approved by the board of land and natural resources, any part or all of which area is the subject of a special use permit issued by the county for geothermal development activities, on or before May 25, 1984 is hereby designated as a geothermal resource subzone for the duration of the lease. The designation of geothermal resource subzones shall be governed exclusively by this section and section 205-5.2, except as provided therein. The board shall adopt, amend, or repeal rules related to its authority to designate and regulate the use of geothermal resource subzones in the manner provided under chapter 91.

The authority of the board to designate geothermal resource subzones shall be an exception to those provisions of this chapter and of section 46-4 authorizing the land use commission and the counties to establish and modify land use districts and to regulate uses therein. The provisions of this section shall not abrogate nor supersede the provisions of chapters 182 and 183.

(c) The use of an area for geothermal development activities within a geothermal resource subzone shall be governed by the board within the conservation district and, except as herein provided, by state and county statutes, ordinances, and rules not inconsistent herewith within agricultural, rural, and urban districts, except that no land use commission approval or special use permit procedures under section 205-6 shall be required for the use of such subzones. In the absence of provisions in the county general plan

and zoning ordinances specifically relating to the use and location of geothermal development activities in an agricultural, rural, or urban district, the appropriate county authority may issue a geothermal resource permit to allow geothermal development activities. "Appropriate county authority" means the county planning commission unless some other agency or body is designated by ordinance of the county council. Such uses as are permitted by county general plan and zoning ordinances, by the appropriate county authority, shall be deemed to be reasonable and to promote the effectiveness and objectives of this chapter. Chapters 177, 178, 182, 183, 205A, 226, 342, and 343 shall apply as appropriate. If provisions in the county general plan and zoning ordinances specifically relate to the use and location of geothermal development activities in an agricultural, rural, or urban district, the provisions shall require the appropriate county authority to conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91, on any application for a geothermal resource permit to determine whether the use is in conformity with the criteria specified in subsection (e) for granting geothermal resource permits.

(d) If geothermal development activities are proposed within a conservation district, then, after receipt of a properly filed and completed application, the board of land and natural resources shall conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91 to determine whether, pursuant to board regulations, a conservation district use permit shall be granted to authorize the geothermal development activities described in the application.

(e) If geothermal development activities are proposed within agricultural, rural, or urban districts and such proposed activities are not permitted [users] uses pursuant to county general plan and zoning ordinances, then after receipt of a properly filed and completed application, the appropriate county authority shall conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91 to determine whether a geothermal resource permit shall be granted to authorize the geothermal development activities described in the application. The appropriate county authority shall grant a geothermal resource permit if it finds that applicant has demonstrated by a preponderance of the evidence that:

- (1) The desired uses would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property; and
- (2) The desired uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection; and
- (3) That there are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to above.

Unless there is a mutual agreement to extend, a decision shall be made on the application by the appropriate county authority within six months of the date a complete application was filed; provided that if a contested case hearing is held, the final permit decision shall be made within nine months of the date a complete application was filed.

(f) Any other law to the contrary notwithstanding, including chapter 91, any appeal of a contested case hearing under this section shall be made upon the record directly to the supreme court for final decision; provided that for a contested case hearing under this section initiated after April 30, 1990, any appeal shall be made in conformity with chapter 91, including judicial review by the circuit court under section 91-14."

SECTION 2. Section 205-5.2, Hawaii Revised Statutes, is amended to read as follows:

"[]§205-5.2[] Designation of areas as geothermal resource subzones. (a) Beginning in 1983, the board of land and natural resources shall conduct a county-by-county assessment of areas with geothermal potential for the purpose of designating geothermal resource subzones. This assessment shall be revised or updated at the discretion of the board, but at least once each five years beginning in 1988. Any property owner or person with an interest in real property wishing to have an area designated as a geothermal resource subzone may submit a petition for a geothermal resource subzone designation in the form and manner established by rules and regulations adopted by the board. An environmental impact statement as defined under chapter 343 shall not be required for the assessment of areas under this section.

(b) The board's assessment of each potential geothermal resource subzone area shall examine factors to include, but not be limited to:

- (1) The area's potential for the production of geothermal energy;
- (2) The prospects for the utilization of geothermal energy in the area;
- (3) The geologic hazards that potential geothermal projects would encounter;
- (4) Social and environmental impacts;
- (5) The compatibility of geothermal development and potential related industries with present uses of surrounding land and those uses permitted under the general plan or land use policies of the county in which the area is located;
- (6) The potential economic benefits to be derived from geothermal development and potential related industries; and
- (7) The compatibility of geothermal development and potential related industries with the uses permitted under sections 183-41 and 205-2, where the area falls within a conservation district.

In addition, the board shall consider, if applicable, objectives, policies and guidelines set forth in part I of chapter 205A, and the provisions of chapter 226.

(c) Methods for assessing the factors in subsection (b) shall be left to the discretion of the board and may be based on currently available public information.

(d) After the board has completed a county-by-county assessment of all areas with geothermal potential or after any subsequent update or review, the board shall compare all areas showing geothermal potential within each county, and shall propose areas for potential designation as geothermal resource subzones based upon a preliminary finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Once such a proposal is made, the board shall conduct public hearings pursuant to this subsection, notwithstanding any contrary provision related to public hearing procedures.

- (1) Hearings shall be held at locations which are in close proximity to those areas proposed for designation. A public notice of hearing, including a description of the proposed areas, an invitation for public comment, and a statement of the date, time, and place where persons may be heard shall be published and mailed no less than twenty days before the hearing. The notice shall be published on three separate days in a newspaper of general circulation statewide and in the county in which the hearing is to

be held. Copies of the notice shall be mailed to the department of planning and economic development, and the planning commission and planning department of the county in which the proposed areas are located.

- (2) The hearing shall be held before the board, and the authority to conduct hearings shall not be delegated to any agent or representative of the board. All persons and agencies shall be afforded the opportunity to submit data, views, and arguments either orally or in writing. The department of planning and economic development and the county planning department shall be permitted to appear at every hearing and make recommendations concerning each proposal by the board.
- (3) At the close of the hearing, the board may designate areas as geothermal resource subzones or announce the date on which it will render its decision. The board may designate areas as geothermal resource subzones only upon finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Upon request, the board shall issue a concise statement of its findings and the principal reasons for its decision to designate a particular area.

(e) The designation of any geothermal resource subzone may be withdrawn by the board of land and natural resources after proceedings conducted pursuant to the provisions of chapter 91. The board shall withdraw a designation only upon finding by a preponderance of the evidence that the area is no longer suited for designation; provided that the designation shall not be withdrawn for areas in which active exploration, development, production or distribution of electrical energy from geothermal sources [is] or direct use applications of geothermal resources are taking place.

(f) This Act shall not apply to any active exploration, development or production of electrical energy from geothermal sources or direct use applications of geothermal resources taking place on June 14, 1983, provided that any expansion of such activities shall be carried out in compliance with its provisions."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

ACT 291

H.B. NO. 1729-86

A Bill for an Act Relating to Civil Remedies and Defenses and Special Proceedings.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 651-1, Hawaii Revised Statutes, is amended to read as follows:

"§651-1 **General provisions.** This part shall apply to circuit and district courts. A judge of any court of record may make any order at chambers which may by the provisions of this part [may] be made by the court in term time. When the proceedings are before a district judge, the

judge shall be regarded as the clerk of the court for all purposes contemplated herein. The phrase "police officer," as used in this part, means the sheriff of the State or [his] the sheriff's deputy, and any chief of police or subordinate police officer [by him] duly authorized by the sheriff. Nothing in this part shall be construed to permit a district judge to issue a writ of attachment to be served out of the circuit in which [his] such judge's [[court[]] is situated, or to permit an attachment of real estate, or any interest therein, under a writ issued by a district court judge."

SECTION 2. Section 651-6, Hawaii Revised Statutes, is amended to read as follows:

"§651-6 Action on bond. In an action on the bond [the] a plaintiff may recover, if [he] the plaintiff shows that the attachment was wrongfully sued out, the actual damages sustained and reasonable attorney's fees [of not more than \$50 in any case], to be fixed by the court. If it is shown that the attachment was sued out maliciously, [he] the plaintiff may recover exemplary damages. No action shall be maintained on any bond until after final judgment in the action, unless the same is discontinued or dismissed."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

ACT 292

H.B. NO. 1857-86

A Bill for an Act Relating to Discrimination in Public Accommodations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER DISCRIMINATION IN PUBLIC ACCOMMODATIONS

§ -1 **Purpose; construction.** (a) The purpose of this chapter is to protect the interests, rights, and privileges of all persons within the State with regard to access and use of public accommodations by prohibiting unfair discrimination.

(b) This chapter shall be liberally construed to further the purposes stated in subsection (a).

§ -2 **Definitions.** As used in this chapter:

"Handicap" means a physical or mental impairment which substantially limits one or more of a person's major life activities, or is regarded as such an impairment. The term does not include alcohol or drug use that impairs a person's activities or threatens the property or safety of others.

"Person" has the meaning prescribed in section 1-19 and includes a legal representative, partnership, receiver, trust, trustee, trustee in bankruptcy, the State, or any governmental entity or agency.

"Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind whose goods, services, facilities, privileges, advantages, or accommodations

are extended, offered, sold, or otherwise made available to the public. By way of example, but not of limitation, place of public accommodation includes facilities of the following types:

- (1) A facility providing service relating to travel or transportation;
- (2) An inn, hotel, motel, or other establishment which provides lodging to transient guests;
- (3) A restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises of a retail establishment;
- (4) An establishment which sells goods or services at retail;
- (5) An establishment licensed under chapter 281 doing business under a class 4, 5, 7, 8, 9, 10, 11, or 12 license, as defined in section 281-31;
- (6) A motion picture theater, other theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;
- (7) A barber shop, beauty shop, bathhouse, swimming pool, gymnasium, reducing or massage salon, or other establishment conducted to serve the health, appearance, or physical condition of persons;
- (8) A campsite or trailer facility;
- (9) A comfort station; or a dispensary, clinic, hospital, convalescent home, or other institution for the infirm;
- (10) A mortuary or undertaking establishment; and
- (11) An establishment which is physically located within the premises of an establishment otherwise covered by this definition, or within the premises of which is physically located a covered establishment, and which holds itself out as serving patrons of the covered establishment.

No place of public accommodation defined in this section shall be requested to construct or reconstruct any facility or part thereof to comply with this chapter.

§ -3 Discriminatory practices prohibition. Unfair discriminatory practices which deny, or attempt to deny, a person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation on the basis of race, sex, color, religion, ancestry or handicap are prohibited.

§ -4 Exception, privacy requirements. The provision of separate facilities or schedules for female and for male patrons, does not constitute a discriminatory practice when such separate facilities or schedules for female and for male patrons are bona fide requirements to protect personal rights of privacy.

§ -5 Other discriminatory practices. It is a discriminatory practice for two or more persons to conspire:

- (1) To retaliate or discriminate against a person because the person has opposed an unfair discriminatory practice;
- (2) To aid, abet, incite, or coerce a person to engage in a discriminatory practice; or
- (3) Wilfully, to obstruct, or prevent, a person from complying with this chapter.

§ -6 Complaint against unfair discrimination; reporting requirements. The department of labor and industrial relations, hereinafter referred to as "department", shall receive all complaints of unfair discriminatory treatment

in public accommodations. Any person claiming to be aggrieved by an unfair discriminatory practice contrary to the purposes of this act may file a verified complaint with the department on a form provided by the department, which shall state the name and address of the public accommodation alleged to have committed the unfair discriminatory practice complained of and set forth the particulars thereof and such other information as may be required by the department. The department shall provide to the legislature a complete record of all complaints that it has received on an annual basis, not less than thirty days prior to the commencement of the legislative session. For each public accommodation alleged to have committed an unfair discriminatory practice, the report shall specify the number and types of complaints that were received.

§ -7 **No limitation on causes of action.** Nothing in this chapter shall be construed to limit any cause of action based upon any unfair discriminatory practices for which a remedy is available under state or federal law."

SECTION 2. Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

ACT 293

H.B. NO. 1938-86

A Bill for an Act Relating to Bank Loans and Investments.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 403-92, Hawaii Revised Statutes, is amended to read as follows:

"§403-92 Limitations on loans and investments; exemptions. No bank shall permit a person, firm, company, or private corporation to become indebted or liable to it, either directly or indirectly, in an amount in excess of twenty per cent of the aggregate paid-up and unimpaired capital and surplus or allocated aggregate paid-up capital and surplus of the bank; provided[,] that [the discount of] a bank's acceptance of drafts or bills of exchange drawn on it, or a bank's purchase or discount of another bank's drafts or bills of exchange, in each case drawn in good faith against actually existing values, including drafts and bills of exchange secured by shipping documents, conveying or securing title to goods shipped, and including demand obligations, when secured by documents covering commodities in actual process of shipment, and also including bankers' acceptances of kinds described in section 13 of the Federal Reserve Act, shall not be computed in such restrictions; provided further that a bank's deposits with another bank made in compliance with section 403-74, and a bank's sale of federal funds to another bank with a maturity of one business day or under a continuing contract, shall not be computed within such restrictions, and provided[,] further[,] that any bank may loan to any individual, firm, company, or corporation any amount provided such loans are secured by the interest-bearing obligations of the United States or those for which the faith and

credit of the United States are distinctly pledged to provide for the payment of the principal and interest thereof or of the State or any county or municipal or political subdivision of this State, issued in compliance with the laws of this State, where the market value of the security shall be at any time not less than one hundred five per cent of the face amount of the loans. In computing the total liabilities, direct or indirect, of any person to a bank, there shall be included all liabilities to the bank of any copartnership or unincorporated association of which he is a member, and any loans made for his benefit or for the benefit of the copartnership or unincorporated association. In computing the total liabilities of any firm, copartnership, or unincorporated association to the bank, there shall be included all liabilities of its individual members and all loans made for the benefit of the copartnership or unincorporated association or any members thereof; and in computing the total liabilities of any corporation to a bank there shall be included all loans made for the benefit of the corporation.

No amount in excess of twenty per cent of the aggregate paid-up and unimpaired capital and surplus or allocated aggregate paid-up capital and surplus of any bank shall be invested by it in bonds, debentures, and other similar evidences of indebtedness issued by or obligating or pledging the faith, credit, or property of any one or the same government, county or political subdivision or municipality of the government or country; provided[,] that the limitation of twenty per cent may be increased up to but not exceeding thirty per cent of the bank's aggregate paid-up and unimpaired capital and surplus or allocated aggregate paid-up capital and surplus with the prior approval of the commissioner upon a satisfactory showing being made to the commissioner that the interests of all concerned will be better served by the granting of the approval; provided[,] that the aggregate of all investments of any bank in any and all bonds, debentures, and other similar evidences of indebtedness issued by or obligating or pledging the faith, credit, or property of persons, firms, companies, corporations, or other entities located, resident or having his or its principal office or place of business outside of the jurisdiction of the United States, and any and all bonds, debentures and other similar evidences of indebtedness issued by or obligating or pledging the faith, credit, or property of foreign countries and political subdivisions, instrumentalities, and municipalities of foreign countries shall at no time exceed twenty per cent of its aggregate paid-up and unimpaired capital and surplus or allocated aggregate paid-up capital and surplus; provided[,] further[,] that these restrictions shall not apply to investments in the interest-bearing obligations of the United States or those for which the faith of the United States is distinctly pledged to provide for the payment of the principal and interest thereof or of the State or any county or political subdivision thereof issued in compliance with the laws of the State."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 356-213, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The revenue bonds shall bear interest at a rate or rates payable [monthly, quarterly, or semi-annually.] at such time or times as the authority may determine with the approval of the governor, except for deeply discounted bonds which are subject to redemption or retirement at their accreted value; provided that the discounted value of such bonds shall not exceed ten per cent of any issue; and provided further that no such bonds may be issued without the prior approval of the director of finance and the governor.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

ACT 295

H.B. NO. 2194-86

A Bill for an Act Relating to Condominiums.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-36, Hawaii Revised Statutes, is amended to read as follows:

“§514A-36 Public reports and issuance fees. (a) When the real estate commission makes an examination of any project, it shall make a public report of its findings, which shall contain all material facts reasonably available. A public report shall neither be construed to be an approval nor disapproval of a project. No final public report for a condominium project shall be issued until execution and recordation of the deed or master lease, the declaration with a true copy of the bylaws annexed thereto, and floor plans as approved by the county officer having jurisdiction over the issuance of permits for the construction of buildings, as provided by sections 514A-12, 514A-20, and 514A-81.

(b) The real estate commission may determine when a public report will supersede the public reports previously issued for the project.

(c) No additional fee shall be imposed for the issuance by the commission of the first public report. The developer shall be assessed a fee of \$150 for the issuance of a subsequent public report and \$75 for the issuance of a supplementary public report.”

SECTION 2. Section 514A-40, Hawaii Revised Statutes, is amended to read as follows:

“§514A-40 Issuance of final reports. [prior to completion of construction.] **(a)** No final public report shall be issued prior to completion of construction of the project, unless there is filed with the real estate commission:

- (1) A verified statement showing all costs involved in completing the project, including land payments or lease payments, real property taxes, construction costs, architect, engineering, and attorneys' fees, financing costs, provisions for contingency, etc., which must

be paid on or before the completion of construction of the building;

- (2) A verified estimate of the time of completion of construction of the total project;
- (3) Satisfactory evidence of sufficient funds to cover the total project cost from purchasers' funds, equity funds, interim or permanent loan commitments, or other sources;
- (4) A copy of the executed construction contract;
- (5) Satisfactory evidence of a performance bond of not less than one hundred per cent of the cost of construction;
- (6) If purchasers' funds are to be used for construction, an executed copy of the escrow agreement for the trust fund required under section 514A-67 for financing construction, which shall expressly provide for:
 - (A) No disbursements by the escrow agent for payment of construction costs unless bills are submitted with the request for such disbursements which have been approved or certified for payment by the mortgagee or a financially disinterested person; and
 - (B) No disbursements from the balance of the trust fund after payment of construction costs pursuant to the preceding paragraph until the escrow agent receives satisfactory evidence that all mechanics' and materialmen's liens have been cleared, unless sufficient funds are set aside for any bona fide dispute;
- (7) A parking plan to include designated residence parking stalls and guest parking, if any, exclusive of assignment to individual apartments, if parking stalls are to be considered limited common elements[.].

(b) No final public report shall be issued for a project which includes one or more existing structures being converted to condominium status unless there is filed with the real estate commission all items required under subsection (a) and:

- [(8) In the case of a project which includes one or more existing structures being converted to condominium status, a] (1) A verified statement signed by an appropriate county official that the project is in compliance with all ordinances, codes, rules, regulations, and other requirements in force at the time of its construction;
- [(9) In the case of a project which includes one or more existing structures being converted to condominium status, a] (2) A verified statement signed by an appropriate county official of whether any variance has been granted from any ordinance, code, rule, regulation, or any other requirement in force at the time of its construction or from any current ordinance, code, rule, regulation, or other requirement;
- [(10) In the case of a project which includes one or more existing structures being converted to condominium status:
 - (A)] (3) A statement by the declarant, based upon a report prepared by an independent registered architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the condominium;

[(B)] (4) A statement by the declarant of the expected useful life of each item reported on in [subparagraph (A)] paragraph (3) or a statement that no representations are made in that regard;

[(C)] (5) A list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the cost of curing these violations; [and]

(6) A statement whether the project is on a lot, or has structures, or uses which do not conform to present zoning requirements;

[(D) Subparagraphs (A), (B), and (C)] provided that paragraphs (3), (4), and (5) apply only to apartments that may be occupied for residential use, and only to apartments that have been in existence for five years."

SECTION 3. Section 514A-41, Hawaii Revised Statutes, is amended to read as follows:

"§514A-41 Supplementary public report. (a) If after [a final] any public report has been issued, any circumstance occurs which would render the [final] public report misleading as to purchasers in any material respect, the developer shall stop all sales and immediately submit sufficient information to the real estate commission to enable it to issue a supplementary public report [describing the circumstance.] to update the information contained in the public report. Sales shall not resume until the supplementary public report has been issued. Unless the supplementary public report has been superseded, all prospective purchasers shall receive a true copy of any supplementary public report issued after a final public report.

(b) The real estate commission may determine when a supplementary public report will supersede the public reports previously issued for the project.

(c) Notwithstanding the provisions of this section, the rescission rights, if any, of a purchaser[, if any,] shall be governed exclusively by sections 514A-62 and 514A-63. This does not preclude a purchaser from exercising any rescission rights pursuant to a contract for sale or any applicable common law remedies."

SECTION 4. Section 514A-61, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In the case of a project which includes one or more existing structures being converted to condominium status:

- (1) A statement by the declarant, based upon a report prepared by an independent registered architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the condominium;
- (2) A statement by the declarant of the expected useful life of each item reported on in paragraph (1) or a statement that no representations are made in that regard; [and]
- (3) A list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the cost of curing these violations;
- (4) A statement whether the project is on a lot, or has structures, or uses which do not conform to present zoning requirements;

[(4) Paragraphs] provided that paragraphs (1), (2), and (3) apply only to apartments that may be occupied for residential use, and only to apartments that have been in existence for five years.

SECTION 5. Section 514A-61, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) This section shall be administered by the real estate commission. The real estate commission may waive the requirements of subsections (a) and (b) if the information required to be contained in the disclosure abstract is included in the real estate commission’s public report on the project.”

SECTION 6. Section 514A-62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The developer (or any other person offering any apartment in a condominium project prior to completion of its construction) shall not enter into a contract or agreement for the sale or resale of an apartment which is binding upon any prospective purchaser until:

- (1) A true copy of the real estate commission’s final public report thereon has been delivered to the prospective purchaser, either personally or by registered or certified mail with return receipt requested, together with a true copy of all other public reports thereon, if any, issued prior to the date of such delivery and not previously delivered to such prospective purchaser[.]. Public reports issued prior to the final public report need not be delivered to the prospective purchaser if:
 - (A) The final public report supersedes all prior public reports;
 - or
 - (B) A supplementary public report has been issued which supersedes the final public report and any other prior public reports, in which case a true copy of the real estate commission’s supplementary public report shall be delivered instead of the final public report;
- (2) The prospective purchaser has been given an opportunity to read the report or reports; and
- (3) The prospective purchaser (A) executes the form of the receipt and notice set forth in subsection (d); and (B) waives his right to cancel; provided that if the prospective purchaser does not execute and return the receipt and notice within thirty days from the date of delivery of such reports, or if the apartment is conveyed to the prospective purchaser prior to the expiration of such thirty-day period, the prospective purchaser shall be deemed to have receipted for the reports and to have waived his right to cancel.”

SECTION 7. Section 514A-62, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Whenever a final public report or supplementary public report is delivered to a prospective purchaser pursuant to subsection (a), two copies of the receipt and notice set out below shall also be delivered to such purchaser, one of which may be used by the purchaser to cancel the transaction. Such receipt and notice shall be printed in capital and lower case letters of not less than [12 point] twelve-point type on one side of a separate statement. The receipt and notice shall be in the following form:

"RECEIPT FOR PUBLIC REPORT(S) AND NOTICE OF RIGHT TO CANCEL

I acknowledge receipt of the Hawaii Real Estate Commission's (Preliminary, Final, [and/or] and Supplementary) Public Report(s) and Disclosure Abstract, contained in the public report, in connection with my purchase of apartment(s) (insert apartment numbers) in the (insert name of condominium project) condominium project. [I also acknowledge that I have had an opportunity to read the Public Report(s).]

I understand that I have a legal right under Hawaii law to cancel my purchase, if I desire to do so, without any penalty or obligation within thirty days from the date the above Public Report or Reports were delivered to me. If I cancel, I understand that I will be entitled to receive the refund of any downpayment or deposit, less any escrow cancellation fees and other costs, up to \$250.

If I decide to cancel, I understand that I can do so by notifying (insert name of seller) at (insert address of seller) by mail or telegram sent before: (1) the conveyance of my apartment(s) to me; or (2) midnight of the thirtieth day after delivery of the Public Report(s) to me, whichever is earlier. If I send or deliver my written notice some other way, it must be delivered to the above address no later than that time. I understand that I can use any written statement that is signed and dated by me and states my intention to cancel, or I may use this notice by checking the appropriate box and by signing and dating below.

I understand that if I do not act within the above thirty-day period or if the apartment is conveyed to me within the above thirty-day period, I will be considered to have executed this receipt and to have waived my right to cancel my purchase. I also understand that I can waive my right to cancel by checking the appropriate box, by signing and dating below, and by returning this notice to (insert name of seller).

[] I WISH TO CANCEL.

I HAVE RECEIVED A COPY OF:

- (1) THE HAWAII REAL ESTATE COMMISSION'S (PRELIMINARY, FINAL, AND SUPPLEMENTARY) PUBLIC REPORT(S) ON (insert name of condominium project); AND**
(2) THE DISCLOSURE ABSTRACT CONTAINED IN THE PUBLIC REPORT.

Purchaser's signature

Date

I HAVE HAD AN OPPORTUNITY TO READ THE PUBLIC REPORT(S) AND

[] I WAIVE MY RIGHT TO CANCEL.

[] I HEREBY EXERCISE MY RIGHT TO CANCEL.

Purchaser's signature

[Date] Date" "

SECTION 8. Section 514A-102, Hawaii Revised Statutes, is amended to read as follows:

"§514A-102 Announcement, publication. (a) Beginning fifteen calendar days prior to the date any developer notifies the commission of the developer's intention to sell a project which is subject to this chapter, the developer shall cause to be published in the classified section of at least one newspaper published daily in the State and having a general circulation in the county in which the project is to be located, not less than once in each of two successive weeks, an announcement containing a summary of at least the following information:

- (1) The location of the project;
- (2) A fair and reasonable estimate of:
 - (A) The total number of apartments to be included in the project;
 - (B) The number of apartments designated as residential units;
 - (C) The price range of the units;
 - (D) The approximate size of the units; and
 - (E) A designation whether the units are fee simple or leasehold;
- (3) [The] A statement that the apartments shall be offered for sale upon the issuance of the first public report by the commission, and the approximate date of the issuance;
- (4) A statement of the intended use, such as, but not limited to, commercial, timesharing, or vacation rental, of any apartment in the project other than a residential unit designated for use by an owner-occupant;
- (5) [The] A statement that fifty per cent of the residential units shall initially be offered for a ten-day period to only prospective owner-occupants, and a designation of such residential units;
- (6) The name and address of a real estate broker, which shall be designated by the developer, who any interested individual may contact to be placed on a reservation list, and to obtain further information on the project; and
- (7) A statement that a public report has not been issued for the project, and that the commission has not yet determined whether the developer has adequately disclosed all material facts as required by law.

(b) Proof of publication of the announcement summarizing the information required [by paragraphs (1) to (7) of this section,] under subsection (a) and a copy [thereof,] of the announcement, shall be filed with the commission as a condition of issuance of any public report.

(c) The developer or the developer's broker shall also provide a copy of the announcement and the following information:

- (1) [the] The number of floors in the project;
- (2) [the] The number of bedrooms and square feet of each residential unit;
- (3) [the] The price and amount of monthly maintenance fees for each residential unit;
- (4) [the] The amount of lease rent for each residential unit and the applicable time periods;

to each prospective purchaser and [to any individual] by certified mail, delivered to the addressee only, return receipt requested, to any individual occupying such unit immediately prior to any conversion. The developer or the developer's broker may provide prospective purchasers with a true copy

of the commission's public report in lieu of the disclosures required by this subsection if the public report contains all the information required under this section."

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

ACT 296

H.B. NO. 2214-86

A Bill for an Act Relating to the Hawaii Penal Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 701-108, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

"(3) If the period prescribed in subsection (2) has expired, a prosecution may nevertheless be commenced for:

- (a) Any offense an element of which is either fraud or a breach of fiduciary obligation within [one] two years after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than [three] six years; and
- (b) Any offense based on misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

ACT 297

H.B. NO. 2219-86

A Bill for an Act Relating to Children's Facilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-16, Hawaii Revised Statutes, is amended by amending the definition of "criminal history record check" in subsection (a) to read as follows:

" "Criminal history record check" means an examination of an individual's criminal history record [by means of] through:

- (1) An initial fingerprint analysis [or] and name inquiry into state and national criminal history record files[.];
- (2) Subsequent fingerprint analyses for new hires and rehires; and
- (3) An annual name inquiry into the state criminal history record files.”

SECTION 2. Section 346-151, Hawaii Revised Statutes, is amended by amending the definition of “criminal history record check” to read as follows:

““Criminal history record check” means an examination of an individual’s criminal history record through:

- (1) An initial fingerprint analysis [or] and name inquiry into state and national criminal history record files[.];
- (2) Subsequent fingerprint analyses for new hires and rehires; and
- (3) An annual name inquiry into the state criminal history record files.”

SECTION 3. Section 346-154, Hawaii Revised Statutes, is amended to read as follows:

“[[§346-154[]] Criminal history record checks. (a) The department shall develop standards to assure the reputable and responsible character of an applicant to operate a child care facility, prospective employees of the applicant, and new employees of the provider after registration or licensure, which shall include, but not be limited to, criminal history record checks.

(b) An applicant to operate a child care facility shall submit to the department statements signed under penalty of perjury by the applicant and prospective employees of the applicant indicating whether the applicant or any of the prospective employees has ever been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less and providing consent to the department to conduct a criminal history record check and to obtain criminal history record information for verification. The applicant and prospective employee of the applicant shall [also] be fingerprinted[.] for the purpose of complying with the criminal history record check.

A provider shall submit to the department a statement signed under penalty of perjury by any employee hired after the initial licensure or registration indicating whether the employee has ever been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less and providing consent to the department to conduct a criminal history record check and obtain criminal history record information for verification. The employee shall [also] be fingerprinted[.] for the purpose of complying with the criminal history record check.

(c) The department shall obtain criminal history record information through the Hawaii criminal justice data center on the applicant and any prospective employee of the applicant, including any new employee after the applicant is issued a registration or license under this part. The Hawaii criminal justice data center may assess the applicant, prospective employee, or new employee a reasonable fee for each criminal history record check conducted. The information obtained shall be used exclusively for the stated purpose for which it was obtained and shall be subject to applicable federal laws and regulations.

(d) The department may deny an application for a license or registration to operate a child care facility if the applicant or any prospective employee has been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less and if the department finds that the criminal

history record of that applicant or prospective employee may pose a risk to the health, safety, or well-being of children.

The department may request the provider to terminate the employment of a new employee or may suspend the license or registration of the provider who employs a new employee if the employee has been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less and if the department finds that the criminal history record of the new employee may pose a risk to the health, safety, or well-being of children."

SECTION 4. Section 352-1, Hawaii Revised Statutes, is amended by amending the definition of "criminal history record check" to read as follows:

""Criminal history record check" means an examination of an individual's criminal history record [by means of] through:

- (1) An initial fingerprint analysis [or] and name inquiry into state and national criminal history record files[.];
- (2) Subsequent fingerprint analyses for new hires and rehires; and
- (3) An annual name inquiry into the state criminal history record files."

SECTION 5. Section 571-2, Hawaii Revised Statutes, is amended by amending the definition of "criminal history record check" to read as follows:

""Criminal history record check" means an examination of an individual's criminal history record [by means of] through:

- (1) An initial fingerprint analysis [or] and name inquiry into state and national criminal history record files[.];
- (2) Subsequent fingerprint analyses for new hires and rehires; and
- (3) An annual name inquiry into the state criminal history record files."

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$60,000, or so much thereof as may be necessary for fiscal year 1986-87, for personnel and operating expenses for the Hawaii criminal justice data center and for the purchase of a vehicle for the data center to fulfill the purposes of this Act, \$5,200 of which is for reimbursement to the counties for processing fingerprints.

SECTION 7. The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 1986.

(Approved May 30, 1986.)

ACT 298

H.B. NO. 2238-86

A Bill for an Act Relating to Child Care Liability Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to part VIII, subpart A, to be appropriately designated and to read as follows:

“§346- Liability insurance coverage; no requirement. (a) For the purpose of this section, “liability insurance coverage” means a general casualty insurance policy issued to a provider insuring against legal liability for injury resulting from negligence to a child during the time the child is under the care of the child care provider.

(b) The department shall not require a provider to obtain or maintain liability insurance coverage as a condition of licensure, temporary permission, or registration to operate a child care facility.

(c) The department, as a condition of continued licensure, temporary permission, or registration, shall require a provider who does not have liability insurance coverage to disclose in writing that the provider does not have coverage to each parent or guardian:

- (1) Applying to have a child cared for at the provider’s facility, if the provider has no liability insurance coverage at the time of application; or
- (2) Within seven working days of cancellation or termination of liability insurance coverage if the coverage is canceled or terminated while the parent’s or guardian’s child is cared for at the provider’s facility.

(c)¹ The department may suspend or revoke a license, temporary permit, or certificate of registration of a provider in accordance with section 346-164 or 346-175, if the provider or any employee of the provider knowingly makes a false statement to any person concerning the provider’s liability insurance coverage.”

SECTION 2. New statutory material is underscored.²

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 299

H.B. NO. 2348-86

A Bill for an Act Relating to Motor Carrier Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-203, Hawaii Revised Statutes, is amended to read as follows:

“[[§286-203[]] Enforcement. For purposes of the enforcement of this part, the director [may delegate the enforcement of any part of the rules adopted by the department to the executive officers of each county and any other state agency having responsibilities relating to the operation of motor vehicles or the authorized representative of such agency pursuant to the powers and duties vested in him under this part.] of transportation shall have such powers of enforcement as may be necessary to implement this part. The director may delegate the enforcement of this part to county executive officers. For the purpose of the safety, welfare and health of the general public, and the safe transportation of hazardous materials and waste on any public highway, and the enforcement of this part and of all rules adopted

pursuant to this part, the director, persons appointed by the director, and the county executive officers to whom powers of enforcement are delegated, may (1) inspect lands, buildings, freight and equipment of motor carriers, (2) stop and inspect freight and equipment of motor carriers and the military on any public highway, and (3) inspect shipping papers and hazardous waste manifests of motor carriers and persons subject to this part. Every state and county officer charged with enforcement of laws and ordinances shall assist in the enforcement of this part and of all rules adopted pursuant to this part and issue citations for violations as appropriate."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

ACT 300

H.B. NO. 2361-86

A Bill for an Act Relating to Family Court.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 584-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A person who has sexual intercourse in this State thereby submits to the jurisdiction of the courts of this State as to an action brought under this chapter with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by statute, [including section 634-35,] personal jurisdiction may be acquired by [service in accordance with section 634-25.] personal service outside this State or by service by certified or registered mail, postage prepaid, with return receipt requested."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved May 30, 1986.)

ACT 301

H.B. NO. 2425-86

A Bill for an Act Relating to Motor Vehicles Under Warranties.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 490:2-313.1, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

"(b) If the manufacturer, its agents, distributor, or authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use and market value of the motor vehicle to the consumer after a reasonable number of documented attempts, then the manufacturer shall replace the motor vehicle with a comparable motor vehicle or accept return of the vehicle from the

consumer and refund to the consumer the following: the full purchase price including, but not limited to, charges for undercoating, dealer preparation, transportation and installed options, and all collateral charges, including, but not limited to, towing charges, replacement car rental costs, general excise tax, license and registration fees, title charges, and similar government charges, excluding interest, and less a reasonable allowance for the consumer's use of the motor vehicle. Refunds made pursuant to this subsection shall be deemed to be refunds of the sales price and treated as such for purposes of section 237-3. Refunds shall be made to the consumer, and lienholder, if any, as their interests may appear. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to the consumer's first report of the nonconformity to the manufacturer, agent, distributor, or dealer and during any subsequent period when the motor vehicle is not out of service by reason of repair. It shall be an affirmative defense to any claim under this section [(1) that] that: (1) an alleged nonconformity does not substantially impair [such] the use and market value[,] of the motor vehicle, or (2) [that] a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by a consumer."

2. By amending subsection (e) to read as follows:

"(e) If a manufacturer has established or participates in an informal dispute settlement procedure which substantially complies with title 16, Code of Federal Regulations, part 703, as from time to time amended, the provisions of subsection (b) concerning refunds or replacement shall not apply to any consumer who has not first resorted to [such] that procedure[.]; provided that the manufacturer, its agents, distributors, or authorized dealers provide the consumer at the time of purchase of the motor vehicle a written notice setting forth the terms of the informal dispute settlement procedure and a statement of the rights of the consumer under this section in plain language, the form of which has been previously reviewed and approved by the department of commerce and consumer affairs for substantial compliance with title 16, Code of Federal Regulations, part 703, and the requirements of this section. Any decision rendered resolving the dispute shall provide appropriate remedies including, but not limited to the following:

- (1) Repair of the motor vehicle; or
- (2) Replacement of the motor vehicle with a comparable motor vehicle;
or
- (3) Acceptance of the motor vehicle from the consumer and refund of the full purchase price, including all collateral charges as specified in subsection (b).

The decision shall specify a date for performance and completion of all awarded remedies."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

SECTION 1. Act 282, Session Laws of Hawaii 1985, Section 7, is amended by amending the definition of "Individual Wastewater System" in item 1.3 to read as follows:

" "Individual Wastewater System" means the facilities which dispose of treated or untreated domestic wastewater generated from dwelling units, or other sources generating domestic wastewater of similar volume and strength in accordance with Sections [3.3.A. and 3.3.B.] 3.4.A., 3.4.B. and 3.4.C. Individual wastewater systems include, but are not limited to, cesspools, septic tanks, and household aerobic units."

SECTION 2. Act 282, Session Laws of Hawaii 1985, Section 7, is amended by amending item 3.4 to read as follows:

"3.4 Individual Wastewater Systems may be utilized in lieu of treatment works for:

- A Developments of density not greater than one (1) dwelling unit per 5,000 square feet of ultimate development; or
- B Developments with buildings other than dwellings but involving the generation of domestic wastewater at a rate of less than 400 gpd per 5,000 square feet of ultimate development. Whenever applicable, the flow computations of the development shall be based on the "Quantities of Sewage Flows" indicated in Table II.; or
- C Multi-family dwelling units developed and constructed pursuant to Section 46-15.1 and Chapters 356, 359 and 359G, HRS, subject to the approval of the director."

SECTION 3. Act 282, Session Laws of Hawaii 1985, Section 7, is amended by amending item 6.1.B to read as follows:

- "B. A single individual wastewater system shall service (a) no more than one (1) dwelling with two (2) or less dwelling units or (b) a building other than a dwelling which involves the generation of domestic wastewater at a rate less than 800 gallons per day. The design flow for individual wastewater systems serving dwellings shall be based on at least 200 gallons per bedroom per day of treated capacity. The design flow for individual wastewater systems serving buildings other than dwellings shall be based on the "Quantities of Sewage Flows," indicated in Table I, where applicable. Otherwise, the design flow shall be determined on the basis of rational extrapolation considering such factors as experience with similar activities, water usage, and number of fixture units, or other factors, as approved by the Director. Such estimates shall be conservative and [many] may include a margin of safety if the Director deems such inclusion to be in the public interest, considering risks of failure or malfunction."

SECTION 4. Act 282, Session Laws of Hawaii 1985, Section 7, is amended by amending item 6.3.B.(1) to read as follows:

- "(1) Where a septic tank is followed by a subsurface disposal field, [the lot size shall be at least 15,000 sq. ft. in area and] the lot topography shall permit the construction of an operable subsurface disposal field with the required absorption area."

SECTION 5. Act 282, Session Laws of Hawaii 1985, Section 7, is amended by amending item 6.3.C(1) to read as follows:

- "(1) Household aerobic units must be approved by the Director. Such approval shall be based upon the "Criteria for Evaluation and Testing," as set forth in Publication 586 issued by the National Academy of Sciences - National Research Council, Washington, D.C., entitled, "REPORT ON INDIVIDUAL HOUSEHOLD AEROBIC TREATMENT SYSTEM," 1958, and upon the submission of data for an operating unit which is representative of the device. Such performance data shall have been obtained by an agency such as a university or an independent research laboratory acceptable to the Director or from the National Sanitation Foundation (NSF) Testing Laboratory, Ann Arbor, Michigan. The size of a household aerobic unit shall be based on 200 gallons per bedroom per day of treated capacity."

SECTION 6. Section 342-31, Hawaii Revised Statutes, is amended by amending the definition of "individual wastewater system" to read as follows:

" "Individual Wastewater System" means a facility which [dispose] disposes of treated or untreated domestic wastewater generated from dwelling units or other sources generating domestic wastewater of similar volume and strength such as: (1) developments of a density not greater than one dwelling unit per 5,000 square feet of ultimate development [or]; (2) developments with buildings other than dwellings but involving the generation of domestic wastewater at a rate of less than 400 gallons per day per 5,000 square feet of ultimate development[.]; or (3) multi-family dwelling units developed and constructed pursuant to section 46-15.1 and chapters 356, 359 and 359-G, subject to the approval of the director. Individual wastewater systems include, but are not limited to, cesspools, septic tanks, and household aerobic units."

SECTION 7. Section 342-32, Hawaii Revised Statutes, is amended to read as follows:

"§342-32 Powers and duties, specific. [(a)] In addition to any other power or duty prescribed by law and in this part, the director shall prevent, control, and abate water pollution in the State. In the discharge of this duty, the director may:

- (1) Establish by rule water quality standards, effluent standards, treatment and pretreatment standards, and standards of performance for specific areas and types of discharges in the control of water pollution, thereby allowing for varying local conditions;
- (2) Appoint a master or masters to conduct investigations and hearings;
- (3) Consult with and advise any person engaged or intending to be engaged in any business or undertaking whose waste, sewage, or drainage is polluting or may tend to pollute state waters;
- (4) Conduct and supervise research programs for the purpose of determining the causes, effects, and hazards of water pollution, the purity and potability of water and the means to monitor the quality of water, or to effect the proper disposal of sewage, drainage, and waste;
- (5) Conduct and supervise state educational and training programs on water pollution prevention, control, and abatement, including the preparation and distribution of information relating to water pollution;

- (6) Consult and advise persons intending to alter or to extend any system of drainage, sewage, or water supply;
- (7) Require complete and detailed plans or reports, on existing works, systems, or plants, and of any proposed addition to, modification of or alteration of any such works, system, or plant which [contain] contains the information requested by the director in the form prescribed by him; which plans or reports shall be made by a competent person acceptable to the director and at the expense of such applicant or owner;
- (8) With the approval of the governor, cooperate with, and receive money from the federal government, or any political subdivision of the State or from private sources for the study and control of water pollution;
- (9) Receive or initiate complaints of water pollution, hold hearings in connection with water pollution, and institute legal proceedings in the name of the State for the prevention, control, or abatement of water pollution;
- (10) Require the owner or operator of any effluent source or any discharger of effluent to (A) establish and maintain records; (B) make reports; (C) install, use, and maintain monitoring equipment or methods; (D) sample effluent and state waters; and (E) provide such other information as the department may require;
- (11) Require any [person, operator] permittee or holder of a variance or person subject to pretreatment requirements to permit the director or his authorized representative upon the presentation of his credentials:
 - (A) To enter [the premises of the person, operator] upon permit-tee's or variance [holder] holder's premises or premises of a person subject to pretreatment requirements in which an effluent source is located or in which any records are required to be kept under the terms and conditions of the permit or variance or pretreatment requirements;
 - (B) To inspect any monitoring equipment or method required in the [plans, specifications] permit or variance or by pretreatment requirements; and
 - (C) To sample any discharge of pollutants or effluent; and
- (12) Publish [an] annual [report] reports on the quality of the state waters, which annual reports shall include, but not be limited to:
 - (A) A description of sampling programs and quality control methods procedures;
 - (B) Statistical analysis and interpretation of the data on an annual basis by specific points (monitoring stations);
 - (C) Discussion of the results of these analyses to the extent that the implications can be understood by the general public;
 - (D) Recommendations for the modification of the water quality monitoring program to enhance its effectiveness for maintaining high standards of water quality in the State; and
 - (E) A note of any significant changes in the quality of state waters.

[(b) In addition, until such time that each county assumes complete administration of the wastewater treatment system program, the director shall regulate individual wastewater systems and private wastewater treatment works

in those counties that have not assumed these functions pursuant to section 27-21.6(5) by imposing requirements, including the two following requirements:

- (1) No individual wastewater system or private wastewater treatment work shall be constructed unless the plans and specifications for the system are submitted to and approved in writing by the director; and
- (2) Following its construction, but prior to its operation, individual wastewater systems and private wastewater treatment works shall be inspected and approved by the director.

The department is authorized to exercise its professional judgment as to the appropriateness and adequacy of wastewater treatment systems on a case by case basis.]"

SECTION 8. Notwithstanding any other law to the contrary, including the provisions of Act 282, Session Laws of Hawaii 1985, the department of health shall adopt rules for the regulation and administration of individual wastewater systems and private wastewater treatment works, and, immediately upon approval of such rules, Sections 4 and 7 of Act 282, Session Laws of Hawaii 1985, shall be repealed.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

ACT 303

H.B. NO. 2526-86

A Bill for an Act Relating to Privacy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 803-41, Hawaii Revised Statutes, is amended to read as follows:

"§803-41 Definitions. In this part:

[(1)] "Wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of intrastate, interstate, or foreign communications[;].

"Wireless communication" means any communication made in whole or in part through the use of domestic public cellular radio telecommunications facilities or microwave facilities furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of intrastate, interstate, or foreign communications as defined and authorized by the Federal Communications Commission.

[(2)] "Oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation[;].

[(3)] "Intercept" means the aural acquisition of the contents of any wire or wireless communication through the use of any electronic, mechanical, or other device[;].

[(4)] "Electronic, mechanical, or other device" means any device or apparatus which can be used to intercept a wire, wireless, or oral communication other than:

- (A) Any telephone or telegraph instrument, equipment or facility, or any component thereof, (i) furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or (ii) being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties;
- (B) A hearing aid or similar device being used to correct subnormal hearing to not better than normal[;].

[(5)] "Person" means any official, employee, or agent of the United States or this State or political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation[;].

[(6)] "Investigative or law enforcement officer" means any officer of the State or political subdivision thereof, who is empowered by the law of this State to conduct investigations of or to make arrests for offenses enumerated in this part[;].

[(7)] "Contents" when used with respect to any wire or wireless communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication[;].

[(8)] "Organized crime" means any combination or conspiracy to engage in criminal activity[;].

[(9)] "Aggrieved person" means a person who was a party to any intercepted wire, wireless, or oral communication or a person against whom the interception was directed."

SECTION 2. Section 803-42, Hawaii Revised Statutes, is amended to read as follows:

"§803-42 Interception and disclosure of wire, wireless, or oral communications prohibited. (a) Except as otherwise specifically provided in this part any person who:

- (1) Wilfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, wireless, or oral communication;
- (2) Wilfully uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any wire, wireless, or oral communication;
- (3) Wilfully discloses, or endeavors to disclose, to any other person the contents of any wire, wireless, or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, wireless, or oral communication in violation of this subsection; or
- (4) Wilfully uses, or endeavors to use, the contents of any wire, wireless, or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, wireless, or oral communication in violation of this subsection;

shall be guilty of a class C felony.

- (b) (1) It shall not be unlawful under this part for an operator of a switchboard, or an officer, employee, or agent of any communica-

tion common carrier, whose facilities are used in the transmission of a wire or wireless communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication; provided that such communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

- (2) It shall not be unlawful under this part for an officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the Commission in the enforcement of chapter 5 of title 47 of the United States Code, to intercept a wire or wireless communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.
- (3) It shall not be unlawful under this part for a person to intercept a wire, wireless, or oral communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of this State or for the purpose of committing any other injurious act; provided that installation in any private place, without consent of the person or persons entitled to privacy therein, of any device for recording, amplifying, or broadcasting sounds or events in that place, or use of any such unauthorized installation, or installation or use outside a private place of such device to intercept sounds originating in that place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy therein is prohibited.
- (4) It shall not be unlawful under this part for any person to intercept a wire, wireless, or oral communication or to disclose or use the contents of an intercepted communication, when such interception is pursuant to a valid court order under this chapter or as otherwise authorized by law; provided that a communications carrier with knowledge of an interception of communications accomplished through the use of the communications carrier's facilities shall report the fact and duration of the interception to the administrative director of the courts of this State.
- (5) Good faith reliance upon a court order shall be a complete defense to any criminal prosecution for illegal interception, disclosure, or use."

SECTION 3. Section 803-43, Hawaii Revised Statutes, is amended to read as follows:

"§803-43 Devices to intercept wire, wireless, or oral communications prohibited; penalty; confiscation. Any person, other than a communications or other common carrier and its duly authorized officers and employees, or any person acting under color of law, who, in this State, manufactures, assembles, possesses, or distributes, or who attempts to distribute, any electronic, mechanical, or other device, knowing or having reason to know that the device or the

design of the device renders it primarily useful for the purpose of wiretapping, wire interception, wireless interception, or eavesdropping, shall be guilty of a class C felony. Any police officer may confiscate any such electronic, mechanical, or other device in violation of this section, and upon conviction the devices shall be destroyed or otherwise disposed of as ordered by the court."

SECTION 4. Section 803-44, Hawaii Revised Statutes, is amended to read as follows:

"§803-44 Application for court order to intercept wire or wireless communications. The attorney general of this State, or a designated deputy attorney general in the attorney general's absence or incapacity, or the prosecuting attorney of each county, or a designated deputy prosecuting attorney in the prosecuting attorney's absence or incapacity, may make application to a circuit court judge, designated by the chief justice of the Hawaii supreme court, in the county where the interception is to take place, for an order authorizing or approving the interception of wire or wireless communications, and such court may grant in conformity with section 803-46 an order authorizing, or approving the interception of wire or wireless communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of murder, kidnapping, or felony criminal property damage involving the danger of serious bodily injury as defined in section 707-700(3), or involving organized crime and any of the following felony offenses: extortion; criminal coercion; bribery of a juror, of a witness, or of a police officer; receiving stolen property; gambling; and sales of dangerous, harmful or detrimental drugs."

SECTION 5. Section 803-45, Hawaii Revised Statutes, is amended to read as follows:

"§803-45 Authorization for disclosure and use of intercepted wire or wireless communications. (a) Any investigative or law enforcement officer who, by any means authorized by this part, has obtained knowledge of the contents of any wire, wireless, or oral communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(b) Any investigative or law enforcement officer, who by any means authorized by this part, has obtained knowledge of the contents of any wire, wireless, or oral communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties.

(c) Any person who has received, by any means authorized by this part, any information concerning a wire, wireless, or oral communication, or evidence derived therefrom intercepted in accordance with the provisions of this part may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any proceeding in any court or before the grand jury in this State.

(d) No otherwise privileged wire, wireless, or oral communication intercepted in accordance with, or in violation of, the provisions of this part shall lose its privileged character.

(e) When an investigative or law enforcement officer, while engaged in intercepting wire, wireless, or oral communications in the manner authorized, intercepts communications relating to offenses other than those specified in the

order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (a) and (b) of this section. Such contents and any evidence derived therefrom may be used under subsection (c) of this section when authorized or approved by the designated circuit court where such court finds on subsequent application, made as soon as practicable, that the contents were otherwise intercepted in accordance with the provisions of this part.

(f) No testimony or evidence relating to a wire, wireless, or oral communication or any evidence derived therefrom intercepted in accordance with the provisions of this part shall be admissible in support of any misdemeanor charge."

SECTION 6. Section 803-46, Hawaii Revised Statutes, is amended to read as follows:

"§803-46 Procedure for interception of wire or wireless communication.

(a) Each application for an order authorizing or approving the interception of a wire or wireless communication shall be made in writing upon oath or affirmation to a designated circuit court and shall state the applicant's authority to make such application. Each application shall include the following information:

- (1) The identity of the investigative or law enforcement officer(s) requesting the application, the official(s) applying for a wiretap order;
- (2) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including (A) details as to the particular offense that has been, is being, or is about to be committed, (B) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (C) a particular description of the type of communications sought to be intercepted, (D) the identity or description of all persons, if known, committing the offense and whose communications are to be intercepted, and where appropriate (E) the involvement of organized crime;
- (3) A full and complete statement of the facts concerning how the interception is to be accomplished, and if physical entry upon private premises is necessary, facts supporting such necessity;
- (4) A full and complete statement of facts as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;
- (5) A statement of facts indicating the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;
- (6) A full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any court for authorization to intercept, or for approval of interceptions of, wire or wireless communications involving any of the same persons, facilities or places specified in

the application, and the action taken by the court on each such application; and

- (7) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(b) An in camera adversary hearing shall be held on any wiretap application or application for extension. Upon receipt of the application the designated judge shall appoint an attorney to oppose the application. The attorney shall be appointed and compensated in the same manner as attorneys are appointed to represent indigent criminal defendants. The appointed attorney shall be given at least twenty-four hours notice of the hearing and shall be served with copies of the application, proposed order, if any, and supporting documents with the notice. At the hearing, the attorney appointed may cross-examine witnesses and present arguments in opposition to the application. The affiant supporting the application shall be present at the hearing. If an interlocutory appeal is taken by the State from the denial of an application, the appointed attorney shall be retained to answer the appeal or another attorney shall be appointed for the appeal. The designated circuit court may require the applicant to furnish additional testimony or documentary evidence under oath or affirmation in support of the application. A transcript of the hearing shall be made and kept with application and orders.

(c) Upon such application and after such adversary hearing, the court may enter an order, as requested or as modified, authorizing or approving interception of wire or wireless communications within the county in which the court is sitting, if the court determines on the basis of the facts submitted by the applicant that:

- (1) There is probable cause for belief that an individual is committing, has committed, or is about to commit murder, kidnapping, or felony criminal property damage involving the danger of serious bodily injury or that an individual is committing, has committed, or is about to commit one of the other offenses specified in section 803-44 and that organized crime is involved;
- (2) There is probable cause for belief that particular communications concerning that offense will be obtained through such interception;
- (3) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and
- (4) There is probable cause for belief that the facilities from which, or the place where, the wire or wireless communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

If the order allows physical entry to accomplish the interception, the issuing judge shall find that the interception could not be accomplished by means other than physical entry.

(d) Each order authorizing or approving the interception, of any wire or wireless communication shall specify:

- (1) The identity or description of all persons, if known, whose communications are to be intercepted;
- (2) The nature and location of the communications facilities as to which, or the place where, authority to intercept is granted, and the means by which such interceptions shall be made;

- (3) A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;
- (4) The identity of the agency authorized to intercept the communications and the persons applying for the application;
- (5) The period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained; and
- (6) How the interception is to be accomplished.

An order authorizing the interception of a wire or wireless communication shall, upon request of the applicant, direct that a communication common carrier, landlord, custodian, or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such carrier, landlord, custodian, or person is according the person whose communications are to be intercepted. Any communication common carrier, landlord, custodian, or other person furnishing such facilities or technical assistance shall be compensated therefor by the applicant at the prevailing rates.

(e) No order entered under this section shall authorize or approve the interception of any wire or wireless communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsections (a) and (b) of this section and the court making the findings required by subsection (c) of this section. The period of extension shall be no longer than the authorizing circuit court deems necessary to achieve the purposes for which it was granted and in no event for longer than fifteen days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this part, and shall terminate upon attainment of the authorized objective, or in any event in thirty days or in fifteen days in case of an extension.

- (1) The interception shall be conducted in such a way as to minimize the resulting invasion of privacy including but not limited to the following methods of minimization:
 - (A) Conversations that appear unlikely to result in incriminating conversations relating to the offense for which the order is issued shall be subject to intermittent monitoring; and
 - (B) Privileged conversations, including those between a person and his spouse, attorney, physician, or clergyman, shall not be intercepted unless both parties to the conversation are named or described in the wiretap application and order.
- (2) In determining whether incriminating statements are likely to occur during a conversation the following factors should be considered:
 - (A) The parties to the conversation;
 - (B) The particular offense being investigated;
 - (C) The subject matter of the conversation;
 - (D) The subject matter of previous conversations between the same parties and whether any incriminating statements occurred; and
 - (E) The hour and day of the conversation.

(f) Whenever an order authorizing interception is entered pursuant to this part, the order shall require reports to be made to the court which issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the court may require.

- (g) (1) The contents of any wire or wireless communication intercepted by any means authorized by this part shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire or wireless communication under this subsection shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the court issuing such order and sealed under the court's directions. Custody of the recordings shall be wherever the court orders. Recordings and other evidence of the contents of conversations and applications and orders shall be destroyed upon the expiration of the statute of limitations for the particular offense for which the order was issued: six years in the case of class A felonies and three years in the case of class B and C felonies. However, upon the request of all the parties to particular conversations, evidence of conversations between those parties shall be destroyed (A) if there are no incriminating statements; (B) if any incriminating statements relate to only misdemeanor offenses; or (C) if the interception of the conversations is determined to have been illegal. Duplicate recordings may be made for use or disclosure pursuant to the provisions of sections 803-45(a) and (b) for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire or wireless communication or evidence derived therefrom under section 803-45(c).
- (2) Applications made and orders granted under this part, transcripts of hearings on applications, and evidence obtained through court-ordered wiretaps shall be sealed by the designated circuit court. Custody of the above shall be whenever the court directs.
- (3) Any violation of the provisions of this subsection may be punished as contempt of the issuing or denying court.
- (4) Within a reasonable time but no later than ninety days after the termination of the period of an order or extensions thereof, the issuing court shall cause to be served, on the persons named in the order, on all other known parties to intercepted communications, and to such other persons as the court may determine is in the interest of justice, an inventory which shall include notice of:
- (A) The fact of the entry of the order;
 - (B) The date of the entry and the period of authorized, or approved interception;
 - (C) The fact whether during the period wire or wireless communications were intercepted; and
 - (D) The fact whether any incriminating statements were intercepted.
- The designated circuit court, upon the filing of a motion, shall make available to such person or his counsel for inspection after the inventory has been served all portions of the intercepted communications which contain conversations of that person, applications,

orders, transcripts of hearings, and other evidence obtained as a result of the use of wiretap orders. The court may order such additional disclosure as the court determines to be in the interest of justice. On an ex parte showing of good cause to a court the serving of the inventory required by this subsection may be postponed.

(h) The contents of any intercepted wire or wireless communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in any court of this State unless each party, not less than thirty days before the trial, hearing or proceeding, has been furnished with copies of the documents required to be disclosed, and contents of intercepted communications or other evidence obtained as a result of wiretapping which is sought to be admitted in evidence. This thirty-day period may be shortened or waived by the court if it finds that the party will not be prejudiced by the delay in receiving such information.

(i) (1) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of this State, or a political subdivision thereof, may move to suppress the contents of any intercepted wire or wireless communication, or evidence derived therefrom, on the grounds that:

- (A) The communication was unlawfully intercepted;
- (B) The order of authorization or approval under which it was intercepted is insufficient on its face; or
- (C) The interception was not made in conformity with the order of authorization or approval.

Such motion shall be made before the trial, hearing, or proceedings unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or wireless communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this part. The court, or other official before whom the motion is made, upon the filing of such motion by the aggrieved person, shall make available to the aggrieved person or his counsel for inspection portions of the recording which contain intercepted communications of the defendant or evidence derived therefrom, the applications, orders, transcript of hearing, and such additional evidence as the court determines to be in the interest of justice.

(2) In addition to any other right to appeal the State shall have the right to appeal:

- (A) From an order granting a motion to suppress made under paragraph (1) of this subsection if the attorney general or prosecuting attorney, or their designated representatives, shall certify to the court or other official granting such motion that the appeal shall be taken within thirty days after the date the order of suppression was entered and shall be diligently prosecuted as in the case of other interlocutory appeals or under such rules as the supreme court may adopt;
- (B) From an order denying an application for an order of authorization or approval, and such an appeal shall be in camera and in preference to all other pending appeals in accordance with rules promulgated by the supreme court."

SECTION 7. Section 803-47, Hawaii Revised Statutes, is amended to read as follows:

“§803-47 Reports concerning intercepted wire or wireless communications. (a) In January of each year, the attorney general and county prosecuting attorneys of this State shall report to the administrative director of the courts of this State and to the administrative office of the United States Courts:

- (1) The fact that an order or extension was applied for;
- (2) The kind of order or extension applied for;
- (3) The fact that the order or extension was granted as applied for, was modified, or was denied;
- (4) The period of interceptions authorized by the order, and the number and duration of any extensions of the order;
- (5) The offense specified in the order or application, or extension of an order;
- (6) The identity of the investigative or law enforcement officer and agency requesting the application and the person authorizing the request for application;
- (7) The nature of the facilities from which or the place where communications were to be intercepted;
- (8) A general description of the interceptions made under such order or extension, including (A) the approximate nature and frequency of incriminating communications intercepted, (B) the approximate nature and frequency of other communications intercepted, (C) the approximate number of persons whose communications were intercepted, and (D) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;
- (9) The number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;
- (10) The number of trials resulting from such interceptions;
- (11) The number of motions to suppress made with respect to such interceptions, and the number granted or denied;
- (12) The number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions;
- (13) The information required by paragraphs (2) through (6) of this subsection with respect to orders or extensions obtained in a preceding calendar year and not yet reported; and
- (14) Other information required by the rules and regulations of the administrative office of the United States Courts.

(b) In March of each year the administrative director of the courts shall transmit to the legislature a full and complete report concerning the number of applications for orders authorizing or approving the interception of wire or wireless communications and the number of orders and extensions granted or denied during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the administrative director of the courts by the attorney general and prosecuting attorneys.”

SECTION 8. Section 803-48, Hawaii Revised Statutes, is amended to read as follows:

“§803-48 Recovery of civil damages authorized. Any person whose wire, wireless, or oral communication is intercepted, disclosed, or used in violation of this part shall (1) have a civil cause of action against any person who intercepts,

discloses, or uses, or procures any other person to intercept, disclose, or use such communications, and (2) be entitled to recover from any such person:

- (A) Actual damages but not less than liquidated damages computed at the rate of \$100 a day for each day of violation;
- (B) Punitive damages; and
- (C) A reasonable attorney's fee and other litigation costs reasonably incurred.

A good faith reliance on a court order shall constitute a complete defense to any civil action brought under this part."

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

ACT 304

H.B. NO. 2549-86

A Bill for an Act Relating to Workers' Compensation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 386, Hawaii Revised Statutes, is amended by adding a new part VI to read as follows:

"PART VI. SELF-INSURANCE GROUPS

§386-191 Scope. This part shall apply to workers' compensation self-insurance groups. This part shall not apply to public employees or governmental entities. Groups which are issued a certificate of approval by the insurance commissioner shall not be deemed to be insurers or insurance companies and shall not be subject to the provisions of the insurance laws and rules, except as otherwise provided in this part.

§386-192 Definitions. For the purpose of this part:

"Administrator" means an individual, partnership, or corporation engaged by a workers' compensation self-insurance group's board of trustees to carry out the policies established by the group's board of trustees and to provide day-to-day management of the group.

"Insolvent" or "insolvency" means the inability of a workers' compensation self-insurance group to pay its outstanding lawful obligations as they mature in the regular course of business, as may be shown either by an excess of its required reserves and other liabilities over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it.

"Net premium" means premium derived from standard premium adjusted by any advance premium discounts.

"Service company" means a person or entity which provides services which are not provided by the administrator. The services which may be provided by a service company include but are not limited to:

- (1) Claims adjustment;
- (2) Safety engineering;
- (3) Compilation of statistics and the preparation of premium, loss, and tax reports;
- (4) Preparation of other required self-insurance reports;

- (5) Development of members' assessments and fees; and
- (6) Administration of a claims fund account.

"Standard premium" means the premium derived from the manual rates adjusted by experience modification factors but before advance premium discounts.

"Workers' compensation self-insurance group" or "group" means a not-for-profit unincorporated association consisting of five or more employers who:

- (1) Are engaged in the same or similar type of business;
- (2) Are members of the same bona fide trade or professional association which has been in existence for not less than five years; and
- (3) Enter into agreements to pool their liabilities for workers' compensation benefits in this State.

§386-193 Authority to act as workers' compensation self-insurance group. No person, association, or other entity shall act as a workers' compensation self-insurance group unless it has been issued a certificate of approval by the insurance commissioner.

§386-194 Qualifications for initial approval and continued authority to act as a workers' compensation self-insurance group. (a) A proposed workers' compensation self-insurance group shall file with the insurance commissioner its application for a certificate of approval accompanied by a nonrefundable filing fee in the amount of \$300. The application shall include the group's name, location of its principal office, date of organization, name and address of each member, and such other information as the insurance commissioner may reasonably require, together with the following:

- (1) Proof of compliance with subsection (b);
- (2) A copy of its articles of association, if any;
- (3) A copy of agreements with the administrator and any service company;
- (4) A copy of the bylaws of the proposed group;
- (5) A copy of the agreement between the group and each member securing the payment of workers' compensation benefits, which shall include provision for payment of special compensation fund assessments as provided for under chapter 386, part IV, subpart C;
- (6) Designation of the initial board of trustees and administrator;
- (7) The address in this State where the books and records of the group will be maintained at all times;
- (8) A pro forma financial statement on a form acceptable to the insurance commissioner showing the financial ability of the group to pay the workers' compensation obligations of its members; and
- (9) Proof of payment to the group by each member of not less than twenty-five per cent of that member's first year estimated annual net premium on a date prescribed by the insurance commissioner. Each payment shall be considered part of the first year premium payment of each member if the proposed group is granted a certificate of approval.

(b) To obtain and maintain its certificate of approval, a workers' compensation self-insurance group shall comply with the following requirements as well as any other requirements established by law or rule:

- (1) A combined net worth of all members of at least \$1,000,000;
- (2) Security in the form and amount prescribed by the insurance commissioner which shall be provided by either a surety bond, security deposit, financial security endorsement, or any combina-

tion thereof. If a surety bond is used to meet the security requirement, it shall be issued by a corporate surety company authorized to transact business in this State. If a security deposit is used to meet the security requirement, securities shall be limited to bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States or any agency or instrumentality thereof; certificates of deposits in a federally insured bank; shares or savings deposits in a federally insured savings and loan association or credit union; or any bond or security issued by any state and backed by the full faith and credit of that state. Any such securities shall be deposited with the director of finance and assigned to and made negotiable by the director of labor and industrial relations pursuant to a trust document acceptable to the insurance commissioner. Interest accruing on a negotiable security so deposited shall be collected and transmitted to the depositor, provided the depositor is not in default. A financial security endorsement, issued as part of an acceptable excess insurance contract, may be used to meet all or part of the security requirement. The bond, security deposit, or financial security endorsement shall be for the benefit of the State solely to pay claims and associated expenses and payable upon the failure of the group to pay workers' compensation benefits it is legally obligated to pay. The insurance commissioner may establish and adjust from time to time requirements for the amount of security based on differences among groups in their size, types of employment, years in existence, and other relevant factors;

- (3) Specific and aggregate excess insurance in a form, in an amount, and by an insurance company acceptable to the insurance commissioner. The insurance commissioner may establish minimum requirements for the amount of specific and aggregate excess insurance based on differences among groups in their size, types of employment, years in existence, and other relevant factors, and may permit a group to meet this requirement by placing in a designated depository securities of the type referred to under paragraph (2);
- (4) An estimated annual standard premium of at least \$250,000;
- (5) An indemnity agreement jointly and severally binding the group and each member thereof to meet the workers' compensation obligations of each member. The indemnity agreement shall be in a form prescribed by the insurance commissioner and shall include minimum uniform substantive provisions prescribed by the insurance commissioner. Subject to the insurance commissioner's approval, a group may add other provisions needed because of its particular circumstances;
- (6) A fidelity bond for the administrator in a form and amount prescribed by the insurance commissioner; and
- (7) A fidelity bond for the service company in a form and amount prescribed by the insurance commissioner. The insurance commissioner may also require the service company providing claim services to furnish a performance bond in a form and amount prescribed by the insurance commissioner.

(c) A group shall notify the insurance commissioner of any change in the information required to be filed under subsection (a) or in the manner of the group's compliance with subsection (b) no later than thirty days after such change.

(d) The insurance commissioner shall evaluate the information provided by the application required to be filed under subsection (a) to assure that no gaps in funding exist and that funds necessary to pay workers' compensation benefits will be available on a timely basis.

(e) The insurance commissioner shall act upon a completed application for a certificate of approval within sixty days. If, because of the number of applications, the insurance commissioner is unable to act upon an application within this period, the insurance commissioner shall have an additional sixty days to act under this subsection.

(f) The insurance commissioner shall issue to the group a certificate of approval upon finding that the proposed group has met all requirements or the insurance commissioner shall issue an order refusing such certificate setting forth reasons for such refusal upon finding that the proposed group does not meet all requirements.

(g) Each workers' compensation self-insurance group shall be deemed to have appointed the insurance commissioner as its attorney to receive service of legal process issued against it in this State. The appointment shall be irrevocable, shall bind any successor in interest, and shall remain in effect as long as there is in this State any obligation or liability of the group for workers' compensation benefits.

(h) Each group shall establish and maintain a safety and accident prevention program for which the insurance commissioner shall prescribe minimum requirements.

§386-195 Certificate of approval; termination. (a) The certificate of approval issued by the insurance commissioner to a workers' compensation self-insurance group authorizes the group to provide workers' compensation benefits. The certificate of approval shall remain in effect until terminated at the request of the group or revoked by the insurance commissioner pursuant to section 386-211.

(b) The insurance commissioner shall not grant the request of any group to terminate its certificate of approval unless the group has insured or reinsured all incurred workers' compensation obligations with an authorized insurer under an agreement filed with and approved in writing by the insurance commissioner. The obligations shall include both known claims and expenses associated therewith and claims incurred, but not reported, and expenses associated therewith.

(c) Subject to the approval of the insurance commissioner, a group may merge with another group engaged in the same or similar type of business only if the resulting group assumes in full all obligations of the merging groups. The insurance commissioner may hold a hearing on the merger and shall do so if any party, including a member of either group, so requests.

§386-196 Examinations. The insurance commissioner may examine the affairs, transactions, accounts, records, and assets and liabilities of each group as often as the insurance commissioner deems advisable. The expense of examinations shall be assessed against the group in the same manner that insurers are assessed for examinations.

§386-197 Board of trustees; membership, powers, duties, and prohibitions. Each group shall be operated by a board of trustees, which shall consist of not less than five persons whom the members of a group elect for stated terms of office. At least two-thirds of the trustees shall be employees, officers, or directors of members of the group. The group's administrator, service company, or any owner, officer, employee of, or any other person affiliated with, the administra-

tor or service company shall not serve on the board of trustees of the group. All trustees shall be residents of this State or officers of corporations authorized to do business in this State. The board of trustees of each group shall ensure that all claims are paid promptly and take all necessary precautions to safeguard the assets of the group, including all of the following:

- (1) The board of trustees shall:
 - (A) Maintain responsibility for moneys collected or disbursed from the group and segregate all moneys into a claims fund account and an administrative fund account. At least seventy per cent of the net premium shall be placed into a designated depository for the sole purpose of paying claims, allocated claims expenses, reinsurance or excess insurance, and special compensation fund assessments. This account shall be called the claims fund account. The remaining net premium shall be placed in a designated depository for the payment of taxes, general regulatory fees and assessments, and administrative costs. This account shall be called the administrative fund account. The commissioner may approve an administrative fund account of more than thirty per cent and a claims fund account of less than seventy per cent only if the group shows to the insurance commissioner's satisfaction that more than thirty per cent is needed for an effective safety and loss control program or that the group's aggregate excess insurance attaches at less than seventy per cent;
 - (B) Maintain minutes of its meetings and make the minutes available to the insurance commissioner;
 - (C) Retain an independent certified public accountant to prepare the statement of financial condition required by section 386-201(a); and
 - (D) Designate an administrator to carry out the policies established by the board of trustees and to provide day to day management of the group and delineate in the written minutes of its meetings the areas of authority it delegates to the administrator.
- (2) The board of trustees shall not:
 - (A) Extend credit to a member for payment of a premium, except pursuant to payment plans approved by the insurance commissioner; and
 - (B) Borrow moneys from the group or in the name of the group, except in the ordinary course of business, without first advising the insurance commissioner of the nature and purpose of the loan and obtaining prior approval from the insurance commissioner.

§386-198 Group membership; termination, liability. (a) An employer joining a workers' compensation self-insurance group after the group has been issued a certificate of approval shall submit an application for membership to the board of trustees or its administrator and enter into the indemnity agreement required by section 386-194(b). Membership shall take effect no earlier than each member's date of approval. The application for membership and its approval shall be maintained as permanent records of the board of trustees.

(b) Each member of a group shall be subject to cancellation by the group pursuant to the bylaws of the group. In addition, each member may elect to terminate participation in the group. The group shall notify the insurance

commissioner and department of labor and industrial relations of the termination or cancellation of a member within ten days. The group shall maintain coverage of each canceled or terminated member for thirty days after the notice, at the terminating member's expense, unless the group is notified sooner by the department that the canceled or terminated member has procured workers' compensation insurance, has become an approved self-insurer, or has become a member of another group.

(c) The group shall pay all workers' compensation benefits for which each member incurs liability during the member's period of membership. A member who elects to terminate its membership or is canceled by a group remains jointly and severally liable for workers' compensation obligations of the group and its members which were incurred during the canceled or terminated member's period of membership.

(d) A group member is not relieved of its workers' compensation liabilities incurred during its period of membership, except through payment by the group or the member of required workers' compensation benefits.

(e) The insolvency or bankruptcy of a member does not relieve the group or any other member of liability for the payment of any workers' compensation benefits incurred during the insolvent or bankrupt member's period of membership.

§386-199 Service companies. (a) No service company or its employees, officers, or directors shall be an employee, officer, or director of, or have either a direct or indirect financial interest in, an administrator. No administrator or its employees, officers, or directors shall be an employee, officer, or director of, or have either a direct or indirect financial interest in, a service company.

(b) The service contract shall state that unless the insurance commissioner permits otherwise the service company shall handle all claims and other obligations incurred during the contract period to their conclusion.

§386-200 Licensing of agent. Except for a salaried employee of a group, its administrator, or its service company, any person soliciting membership in a workers' compensation self-insurance group shall be licensed as a general agent or subagent as provided under sections 431-361 to 431-407.

§386-201 Financial statements and other reports. (a) Each group shall submit to the insurance commissioner a statement of financial condition audited by an independent certified public accountant on or before the last day of the sixth month following the end of the group's fiscal year. The financial statement shall be on a form prescribed by the insurance commissioner and shall include, but not be limited to, actuarially appropriate reserves for:

- (1) Known claims and expenses associated therewith;
- (2) Claims incurred but not reported and expenses associated therewith;
- (3) Unearned premiums; and
- (4) Bad debts, reserves for which shall be shown as liabilities.

An actuarial opinion regarding reserves for known claims and expenses associated therewith and claims incurred but not reported and expenses associated therewith shall be included in the audited financial statement. The actuarial opinion shall be given by a member of the American Academy of Actuaries or other qualified loss reserve specialist as defined in the annual statement adopted by the National Association of Insurance Commissioners.

(b) No person shall make any untrue statement of a material fact in connection with the solicitation of membership of a group. No person shall omit to state a material fact which makes the statement misleading, in light of the

circumstances under which it is made, in connection with the solicitation of membership of a group.

(c) The insurance commissioner may prescribe the format and frequency of other reports which may include, but shall not be limited to, payroll audit reports, summary loss reports, and quarterly financial statements.

§386-202 Misrepresentation prohibited. No person shall make a material misrepresentation or omission of a material fact in connection with the solicitation of membership of a group.

§386-203 Investments. Funds not needed for current obligations may be invested by the board of trustees in accordance with sections 431-281 to 431-312.

§386-204 Rates and reporting of rates. (a) Every workers' compensation self-insurance group shall adhere to the uniform classification system, uniform experience rating plan, and manual rules filed with the insurance commissioner by an advisory organization designated by the insurance commissioner.

(b) Premium contributions to the group shall be determined by applying the manual rates and rules to the appropriate classification of each member which shall be adjusted by each member's experience credit or debit. Subject to approval by the insurance commissioner, premium contributions may also be reduced by an advance premium discount reflecting the group's expense levels and loss experience.

(c) Notwithstanding subsection (b), a group may apply to the insurance commissioner for permission to make its own rates. The rates shall be based on at least five years of the group's experience.

(d) Each group shall be audited at least annually by an auditor acceptable to the insurance commissioner to verify proper classifications, experience rating, payroll, and rates. A report of the audit shall be filed with the insurance commissioner in a form acceptable to the insurance commissioner. A group or any member thereof may request a hearing on any objections to the classifications. If the insurance commissioner determines that, as a result of an improper classification, a member's premium contribution is insufficient, the insurance commissioner shall order the group to assess that member an amount equal to the deficiency. If the insurance commissioner determines that, as a result of an improper classification, a member's premium is excessive, the insurance commissioner shall order the group to refund to the member the excess collected. The audit shall be at the expense of the group.

§386-205 Refunds. (a) Any moneys for a fund year in excess of the amount necessary to fund all obligations for that fund year may be declared to be refundable by the board of trustees not less than twelve months after the end of the fund year.

(b) Each member shall be given a written description of the refund plan at the time of application for membership. A refund for any fund year shall be paid only to those employers who remain participants in the group for the entire fund year. Payment of a refund based on a previous fund year shall not be contingent on continued membership in the group after that fund year.

§386-206 Premium payment; reserves. (a) Each group shall establish to the satisfaction of the insurance commissioner a premium payment plan which shall include an initial payment by each member of at least twenty-five per cent of that member's annual premium before the start of the group's fund year and payment of the balance of each member's annual premium in monthly or quarterly installments.

(b) Each group shall establish and maintain actuarially appropriate loss reserves, which shall include reserves for known claims and expenses associated therewith and claims incurred but not reported and expenses associated therewith.

(c) Each group shall establish and maintain bad debt reserves based on the historical experience of the group or other groups.

§386-207 Deficits and insolvencies. (a) If the assets of a group are at any time insufficient to enable the group to discharge its legal liabilities and other obligations and to maintain the reserves required of it under this chapter, the group shall forthwith make up the deficiency or levy an assessment upon its members for the amount needed to make up the deficiency.

(b) In the event of a deficiency in any fund year, the deficiency shall be made up immediately, either from:

- (1) Surplus from a fund year other than the current fund year;
- (2) Administrative funds;
- (3) Assessment of the membership, if ordered by the group; or
- (4) An alternate method as the insurance commissioner may approve or direct.

The insurance commissioner shall be notified prior to any transfer of surplus funds from one fund year to another.

(c) If the group fails to assess its members or to otherwise make up the deficit within thirty days, the insurance commissioner shall order it to do so.

(d) If the group fails to make the required assessment of its members within thirty days after the insurance commissioner orders it to do so or if the deficiency is not fully made up within sixty days after the date on which the assessment is made or within a longer period of time as may be specified by the insurance commissioner, the group shall be deemed to be insolvent.

(e) The insurance commissioner shall proceed against an insolvent group in the same manner as the insurance commissioner would proceed against an insolvent domestic insurer in this State as prescribed in sections 431-651 to 431-686. The insurance commissioner shall have the same powers and limitations in the proceedings as are provided under those laws, except as otherwise provided in this chapter.

(f) In the event of the liquidation of a group, the insurance commissioner shall levy an assessment upon its members for an amount as the insurance commissioner determines to be necessary to discharge all liabilities of the group, including the reasonable cost of liquidation.

§386-208 Guaranty mechanism. In the event of a liquidation pursuant to section 386-207, after exhausting the security required pursuant to section 386-194(b)(2), the insurance commissioner shall levy an assessment against all groups to assure prompt payment of benefits. The assessment on each group shall be based on the proportion that the premium of each group bears to the total premium of all groups. The insurance commissioner may exempt a group from assessment upon finding that the payment of the assessment would render the group insolvent. The assessment shall not relieve any member of an insolvent group of its joint and several liability. After any assessment is made, the insurance commissioner shall take action to enforce the joint and several liability provisions of the insolvent group's indemnity agreement and shall recoup:

- (1) All costs incurred by the insurance commissioner in enforcing the joint and several liability;

- (2) Amounts that the insurance commissioner assessed any other groups pursuant to this section; and
- (3) Any obligation included within section 386-207(f).

§386-209 Monetary penalties. After notice and opportunity for a hearing, the insurance commissioner may impose a monetary penalty on any person or group found to be in violation of any provision of this chapter or any rule adopted thereunder. The monetary penalty shall not exceed \$1,000 for each act or violation and shall not exceed \$10,000 in the aggregate. The amount of any monetary penalty shall be paid to the insurance commissioner and transmitted to the director of finance for deposit into the general fund.

§386-210 Cease and desist orders. (a) After notice and opportunity for a hearing, the insurance commissioner may issue an order requiring a person or group to cease and desist from engaging in an act or practice found to be in violation of any provision of this chapter or any rule adopted under this chapter.

(b) Upon a finding, after notice and opportunity for a hearing, that any person or group has violated any cease and desist order, the insurance commissioner may do either or both of the following:

- (1) Impose a monetary penalty of not more than \$10,000 for each and every act or violation of the order, but not to exceed an aggregate monetary penalty of \$100,000; or
- (2) Revoke the group's certificate of approval or any insurance license held by the person.

§386-211 Revocation of certificate of approval. (a) After notice and opportunity for a hearing, the insurance commissioner may revoke a group's certificate of approval if the group:

- (1) Is found to be insolvent;
- (2) Fails to pay any premium tax, regulatory fee or assessment, or special compensation fund assessments imposed upon it; or
- (3) Fails to comply with any provision of this chapter or any rule adopted under this chapter or with any lawful order of the insurance commissioner within the time prescribed.

(b) In addition, the insurance commissioner may revoke a group's certificate of approval if, after notice and opportunity for hearing, the insurance commissioner finds that:

- (1) Any certificate of approval that was issued to the group was obtained by fraud;
- (2) There was a material misrepresentation in the application for the certificate of approval; or
- (3) The group or its administrator has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any moneys that belong to a member, an employee of a member, or a person otherwise entitled thereto and that have been entrusted to the group or its administrator in its fiduciary capacities.

§386-212 Notice and hearing. The insurance commissioner in the administration of this chapter shall comply with chapters 91 and 92 when applicable.

§386-213 Rules. The insurance commissioner shall adopt rules in accordance with chapter 91 for the purposes of this chapter.

§386-214 Severability. If any provision of this chapter, or the application thereof, to any person or circumstance, is subsequently held to be invalid, the invalidity shall not affect other provisions or applications of this chapter.”

SECTION 2. Section 386-1, Hawaii Revised Statutes, is amended by amending the definition of “employer” to read as follows:

“‘Employer’ means any person having one or more persons in his employment. It includes the legal representative of a deceased employer and the State, any county or political subdivision of the State, and any other public entity within the State.

The insurer of an employer is subject to the employer’s liabilities, shall pay the deductible as provided for under section 386-100, shall collect the amount of the deductible from the employer, and be entitled to rights and remedies under this chapter as far as applicable.

The workers’ compensation self-insurance group of which an employer is a member is subject to that employer’s liabilities and entitled to rights and remedies under this chapter as far as applicable.”

SECTION 3. Section 386-121, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Employers, except the State, any county or political subdivision of the State, or other public entity within the State, shall secure compensation to their employees in one of the following ways:

- (1) By insuring and keeping insured the payment of compensation with any stock, mutual, reciprocal, or other insurer authorized to transact the business of workers’ compensation insurance in the State;
- (2) By depositing and maintaining with the state director of finance security satisfactory to the director of labor and industrial relations securing the payment by the employer of compensation according to the terms of this chapter;
- (3) Upon furnishing satisfactory proof to the director of his solvency and financial ability to pay the compensation and benefits herein provided, no insurance or security shall be required, and the employer shall make payments directly to his employees, as they may become entitled to receive the same under the terms and conditions of this chapter[.]; or
- (4) By membership in a workers’ compensation self-insurance group with a valid certificate of approval under section 386-194.

Any person who wilfully misrepresents any fact in order to obtain the benefits of paragraph (3) [of this subsection] shall be guilty of a misdemeanor.”

SECTION 4. Section 386-122, Hawaii Revised Statutes, is amended to read as follows:

“§386-122 Notice of insurance. If the insurance so effected is [not] under [paragraph (2) or (3) of] section [386-121(a)] 386-121(a)(1), the employer shall forthwith file with the director of labor and industrial relations in a form prescribed by the director a notice of his insurance together with a copy of the contract or policy of insurance.”

SECTION 5. Section 386-154, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) As used in this section:

[(1)] "Employing unit" means an employer who has not secured compensation to his employees under section 386-121(a)(1)[.]; except that, for employers who are members of a workers' compensation group under part VI, the term means the group.

[(2)] "Average annual compensation" means the average of annual compensation payments made by an employing unit for a period consisting of two consecutive calendar years immediately preceding the year for which the charge is assessed under this section; provided that if, at the end of a calendar year, an employing unit was subject to this chapter for a period less than twelve consecutive months the total amount of compensation payments made by him during such period shall constitute his average annual compensation.

[(3)] "Employing unit's compensation ratio" means the percentage ratio derived by dividing an employing unit's average annual compensation at the end of a calendar year by the total average annual compensation paid during the same two calendar years by all employers subject to this chapter.

[(4)] "Carrier's compensation ratio" means the quotient derived by dividing the total average annual compensation paid during the two most recent calendar years by all insurance carriers on behalf of employers insured and keeping insured under section 386-121(a)(1) by the total average annual compensation paid during the same two calendar years by all employers subject to this chapter.

[(5)] "Anticipated total assessment" means the amount derived by dividing the total amount of the levy to be paid by insurance carriers in a calendar year as required by section 386-153 by the most recent carrier's compensation ratio."

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$153,000, or so much thereof as may be necessary for fiscal year 1986-1987, to implement the licensure and regulation of workers' compensation self-insurance groups, including the hiring of appropriate personnel, by the insurance commissioner. The sum appropriated shall be expended by the department of commerce and consumer affairs.

SECTION 7. This Act shall not affect rights and duties which matured, penalties which were incurred, and proceedings which were begun prior to its effective date.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

ACT 305

H.B. NO. 2561-86

A Bill for an Act Relating to Elections.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 11-118, Hawaii Revised Statutes, is amended to read as follows:

"§11-118 Vacancies; new candidates; insertion of names on ballots. In case of death, withdrawal, or disqualification of any party candidate after filing, the vacancy so caused may be filled by the appropriate committee of the party.

The party shall be notified by the chief election officer or the clerk in the case of a county office immediately after the death, withdrawal, or disqualification. If the party fills the vacancy, and so notifies the chief election officer or clerk not later than 4:30 p.m. on the third day after the vacancy occurs, but not later than 4:30 p.m. on the fiftieth day prior to a primary or special primary election or not later than 4:30 p.m. on the fortieth day prior to a special, general, or special general election, the name of the replacement shall be printed in an available and appropriate place on the ballot, not necessarily in alphabetical order. The chief election officer or county clerk in county elections may waive any or all of the foregoing requirements in special circumstances as provided in the rules adopted by the chief election officer. If no substitution is made, the candidacy involved shall be declared vacant.”

SECTION 2. Section 11-151, Hawaii Revised Statutes, is amended to read as follows:

“§11-151 **Vote count.** Each contest or question on a ballot shall be counted independently as follows:

- (1) If the votes cast in a contest or question are equal to or less than the number to be elected or chosen for that contest or question, the votes for that contest or question shall be counted.
- (2) If the votes cast in a contest or question exceed the number to be elected or chosen for that contest or question, the votes for that contest or question shall not be counted.
- (3) If a contest or question requires a majority of the votes for passage, any blank, spoiled, or invalid ballot shall not be tallied for passage or as votes cast except that such ballots shall be counted as votes cast in ratification of a constitutional amendment.”

SECTION 3. Section 11-155, Hawaii Revised Statutes, is amended to read as follows:

“§11-155 **Certification of results of election.** On receipt of certified tabulations from the election officials concerned, the chief election officer or county clerk in county elections shall compile, certify, and release the election results after the expiration of the time for bringing an election contest. A certificate of election or a certificate of results declaring the results of the election as of election day shall be issued pursuant to section 11-156. The number of [persons] candidates to be elected receiving the highest number of votes in any election district shall be declared to be elected. Unless otherwise provided, the term of office shall begin or end as of the close of polls on election day. The position on the question receiving the appropriate majority of the votes cast shall be reflected in a certificate of results issued pursuant to section 11-156.”

SECTION 4. Section 11-156, Hawaii Revised Statutes, is amended to read as follows:

“§11-156 [**Certificate of election,**] **Certificate of election and certificate of results, form.** The chief election officer or county clerk shall deliver certificates of election to the persons elected as determined under section 11-155. The chief election officer or county clerk in county elections shall issue certificates of results where a question has been voted upon. [These certificates] Certificates of election shall be delivered only after the filing of expense statements by the person elected in accordance with part XII and after the expiration of¹ time for bringing an election contest. [If there is an election

contest the certificate shall be delivered only after a final determination in the contest has been made and the time for an appeal has expired.] The certificate of election shall be substantially in the following form:

CERTIFICATE OF ELECTION

I, _____, chief election officer (county clerk) of Hawaii (county), do hereby certify that _____ was on the _____ day of _____ 19____, duly elected a _____ (name of office) _____ for the _____ district for a term expiring on the _____ day of _____, A.D. 19____.

Witness my hand this _____ day of _____, A.D. 19____.

Chief Election Officer (County Clerk)

The certificate of results shall be substantially in the following form:

CERTIFICATE OF RESULTS

I, _____, chief election officer (county clerk) of Hawaii (county), do hereby certify that _____ (question) was on the _____ day of _____ 19____, duly adopted (rejected) by a majority of the votes cast.

Chief Election Officer (County Clerk)

If there is an election contest these certificates shall be delivered only after a final determination in the contest has been made and the time for an appeal has expired."

SECTION 5. Section 15-4, Hawaii Revised Statutes, is amended to read as follows:

"§15-4 Request for absentee ballot. Any person registered to vote may request an absentee ballot in person or in writing from the clerk not earlier than on the sixtieth day and not later than 4:30 p.m. on the seventh day prior to the election. Any mailed requests for an absentee ballot shall be mailed by the person directly to the clerk. The clerk may waive any or all of the foregoing requirements in special cases as provided in the rules adopted by the chief election officer.

The request shall include information such as the person's social security number, date of birth, and the address under which the person is registered to vote. [and] The request shall also include the address to which [he] the person wishes [his] the requested ballot forwarded. The request, when made for any primary or special primary election, may include an additional request for an absentee ballot to be voted at any election immediately following the primary or special primary provided the person so indicates in his request.

Subsequent to the closing of registration for each election, the clerk may mail a request form for an absentee ballot to each voter in a remote area who has not already made such a request. The request form shall be accompanied by:

- (1) A stamped, self-addressed envelope; and
- (2) Instructions regarding the manner of completing and returning the request form."

SECTION 6. Section 17-2, Hawaii Revised Statutes, is amended to read as follows:

"§17-2 United States representative. When a vacancy occurs in the representation of this State in the United States House of Representatives, the chief election officer shall issue a proclamation for an election to fill the vacancy [unless the unexpired term is for less than one hundred eighty days. If the unexpired term is less than one hundred eighty days, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party as the person he succeeds]. The proclamation shall be issued not later than on the sixtieth day prior to the election to fill the vacancy and shall contain the date, time, and places where the special election is to be held, the time within which nomination papers shall be filed, the time for transmitting to county clerks the notice designating the offices for which candidates are to be elected, the time for transmitting to county clerks lists of candidates to be voted for at the special election and such other matter¹ as provided for in section 11-91 and which are not inconsistent with this section. The special election shall be conducted and the results ascertained so far as practicable, in accordance with this title. [Pending the election, the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election and qualification of the person duly elected to fill the vacancy and shall be a registered member of the same political party as the representative causing the vacancy.]"

SECTION 7. Statutory material to repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

Note

1. So in original.

ACT 306

H.B. NO. 2580-86

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to provide an exemption for amounts received for the sale of prescription drugs and prosthetic devices under the general excise tax.

SECTION 2. Section 237-24, Hawaii Revised Statutes, is amended to read as follows:

"§237-24 Amounts not taxable. This chapter shall not apply to the following amounts:

- (1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured;
- (2) Amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract;

- (3) Amounts received under any accident insurance or health insurance policy or contract or under workers' compensation acts or employers' liability acts, as compensation for personal injuries, death, or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of the personal injuries, death, or sickness;
- (4) The value of all property of every kind and sort acquired by gift, bequest, or devise, and the value of all property acquired by descent or inheritance;
- (5) Amounts received by any person as compensatory damages for any tort injury to him, or to his character reputation, or received as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties (provided that amounts received as punitive damages for tort injury or breach of contract injury shall be included in gross income);
- (6) Amounts received as salaries or wages for services rendered by an employee to an employer;
- (7) Amounts received as alimony and other similar payments and settlements;
- (8) Amounts collected by distributors as fuel taxes on "liquid fuel" imposed by chapter 243, and the amounts collected by such distributors as a fuel tax imposed by any act of the Congress of the United States;
- (9) Taxes on liquor imposed by chapter 244D on dealers holding permits under that chapter;
- (10) The amounts of taxes on tobacco products imposed by chapter 245 on wholesalers or dealers holding licenses under that chapter and selling the products at wholesale, and the amounts of taxes on tobacco products collected from a wholesaler by another where the wholesaler makes separate charges for the amounts so collected from him and collects the same from those purchasing from him as provided by chapter 245;
- (11) Federal excise taxes imposed on articles sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer;
- (12) The amounts of federal taxes under chapter 37 of the Internal Revenue Code, or similar federal taxes, imposed on sugar manufactured in the State, paid by the manufacturer to the federal government;
- (13) An amount up to, but not in excess of, \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging, or continuing, in any business, trade, activity, occupation, or calling within the State;
- (14) Amounts received by an organization enumerated under section 237-23(a)(5) to (8) from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
- (15) Amounts received by a producer of sugarcane from the manufacturer to whom he sells the sugarcane, where (A) the producer is an independent cane farmer, so classed by the secretary of agriculture under the Sugar Act of 1948 (61 Stat. 922, Chapter 519) as the Act may be amended or supplemented, and (B) the value of the sugar,

and other products manufactured from the sugarcane, is included in the measure of the tax levied on the manufacturer under section 237-13(1), and (C) the producer's gross proceeds of sales are dependent upon the actual value of the products manufactured therefrom or the average value of all similar products manufactured by the manufacturer, and (D) the producer's gross proceeds of sales are reduced by reason of the tax on the value of the manufactured products;

- (16) Money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes;
- (17) Amounts received by a cooperative housing corporation from its shareholders in reimbursement of funds paid by such corporation for lease rental, real property taxes, and other expenses of operating and maintaining the cooperative land and improvements, provided that such a cooperative corporation is a corporation:
 - (A) Having one and only one class of stock outstanding;
 - (B) Each of the stockholders of which is entitled solely by reason of his ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building owned or leased by the corporation;
 - (C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation;
- (18) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped for a producer or produce dealer on one island of this State to a person, firm, or organization on another island of this State. The terms "agricultural commodity", "producer", and "produce dealer" shall be defined in the same manner as they are defined in section 147-1;
- (19) Amounts received from sales of (A) intoxicating liquor as defined in chapter 244D, (B) tobacco products as defined in chapter 245, and (C) agricultural, meat, or fish products grown, raised, or caught in Hawaii, when such sales are made to any person or common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out-of-state by such person, crew, or passengers on such shipper's vessels or airplanes;
- (20) Amounts received by the manager or board of directors of an association of apartment owners of a horizontal property regime established in accordance with chapter 514A in reimbursement of sums paid for common expenses;
- (21) Any provision of law to the contrary notwithstanding, exemptions or exclusions from tax under this chapter allowed on or before April 1, 1978, for amounts received by any person or common carrier engaged in interstate or foreign commerce, or both, whether ocean-going or air, shall continue undiminished and be available thereafter to the extent and under the conditions such exemptions or exclusions have theretofore been previously allowed in the State under the provisions of the Constitution of the United States or an act of the Congress of the United States; [and]
- (22) Amounts received by an employee benefit plan by way of contributions, dividends, interest, and other income; and amounts received by a nonprofit organization or office, as payments for costs and

expenses incurred for the administration of an employee benefit plan. For the purposes of this paragraph, "employee benefit plan" means any plan as defined in section 1002(3) of title 29 of the United States Code, as amended[.];

- (23) Amounts received by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual. This paragraph shall not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices. As used in this section:

"Prescription drugs" are those drugs required to be prescribed by a practitioner licensed under law to administer the drug and which are dispensed and sold by a licensed pharmacist under section 328-16.

"Prosthetic device" means any artificial device or appliance used to replace a missing or surgically removed part of the human body prescribed by a licensed practitioner of medicine, osteopathy, or podiatry; provided that "prosthetic device" shall not mean any auditory, ophthalmic, dental, or ocular device or appliance."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1986.

(Approved May 30, 1986.)

ACT 307

H.B. NO. 2589-86

A Bill for an Act Relating to Health Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature declares that it is for the general welfare of the State to provide equal protection and benefits to all residents, including the non-English and limited English speaking. The legislature recognizes the need for bilingual outreach workers to assist non-English and limited English speaking residents. Hawaii experiences a continuous influx of persons from the Asian countries and the Pacific Basin. According to the 1980 census, there were 63,045 legal immigrants, 14,349 American nationals, 5,947 refugees, and 7,500 to 10,000 undocumented aliens in Hawaii. In 1982, there were 6,890 aliens in Hawaii, and in 1983, 5,238 aliens and 6,800 refugees arrived and settled permanently in Hawaii.

The legislature finds that making health and health-related services available to these residents is not enough. Language and communication, as well as cultural differences, are major problems which must be met in order to provide equal opportunity and equal access to health services for non-English and limited English speaking residents.

The program evaluation by the Action Agency under the Executive Office of the President of the United States indicates that Hawaii's bilingual health education aide program has been highly successful. This program is documented in a book entitled Making Health Education Work, which has been distributed nationwide. The American Public Health Association has cited the

program as an example of an outstanding program servicing persons with low income and minorities.

The purpose of this Act is to establish a permanent bilingual health education aide program.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§321- Bilingual health education aide program; establishment. There is established in the department of health a bilingual health education aide program. Under the program, bilingual health education aides shall assist in the provision of health education and public health services to non-English and limited English speaking persons living in the State. The department, subject to chapters 76 and 77, shall employ bilingual health education aides and other necessary personnel for the program.”

SECTION 3. No employee under contractual employment with the department of health as a bilingual health education aide on the effective date of this Act shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, but may be transferred or appointed to a civil service position, including a bilingual health education aide position; provided that the employee possesses the minimum qualifications for the position to which transferred or appointed and passes the applicable examination.

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 308

H.B. NO. 2595-86

A Bill for an Act Relating to the Public Service Company Tax.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 239-2, Hawaii Revised Statutes, is amended by amending the definition of “gross income” to read as follows:

- “(6) “Gross income” means the gross income from public service company business as follows:
 - (A) Gross income from the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil; [or]
 - (B) Gross income from the transportation of passengers or freight, or the conveyance or transmission of telephone or telegraph messages, or the furnishing of facilities for the transmission of intelligence by electricity, by land or water or air:
 - (i) Originating and terminating within this State, [or]
 - (ii) By means of vessels or aircraft having their home port in the State and operating between ports or airports in the State, with respect to the transportation so effected, or

- (iii) By means of plant or equipment located in the State, between points in the State; or
- (C) Gross income from the transportation of freight by motor carriers (other than as stated in [paragraph (6)(B) of this section], subparagraph (B)), or the conveyance or transmission of messages or intelligence through wires or cables located or partly located in the State (other than as stated in [paragraph (6)(B) of this section].) subparagraph (B).

The words "gross income" and "gross income from public service company business" shall not be construed to include dividends (as defined by chapter 235) paid by one member of an affiliated public service company group to another member of the same group; or gross income from the sale or transfer of materials or supplies, interest on loans, or the provision of engineering, construction, maintenance, or managerial services by one member of an affiliated public service company group to another member of the same group. "Affiliated public service company group" means an affiliated group of domestic corporations within the meaning of chapter 235, all of the members of which are public service companies. "Member of an affiliated public service company group" means a corporation (including the parent corporation) which is included within an affiliated public service company group.

Where tourism related services are furnished through arrangements made by a travel agency or tour packager and the gross income is divided between the provider of the services on the one hand and the travel agency or tour packager on the other hand, any tax imposed by this chapter shall apply to each such person with respect to such person's respective portion of the proceeds, and no more.

As used in this paragraph "tourism related services" means motor carriers of passengers regulated by the public utilities commission."

SECTION 2. The department of taxation is directed to and shall submit to the legislature ten days before the regular session of 1987, rules which have been adopted under chapter 91, Hawaii Revised Statutes, that clarify the operation of, and notify the public of the department's interpretation of, section 239-2, Hawaii Revised Statutes, as amended by this Act.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

ACT 309

H.B. NO. 2608-86

A Bill for an Act Relating to Tuition Waivers for Veterans.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§304- Tuition waiver for veterans. (a) Subject to this section, the board of regents shall waive all tuition fees for the regular academic year for any veteran of the armed forces of the United States of America who:

- (1) Served in the Southeast Asia theater of conflict during the Vietnam era;
- (2) Was discharged from the armed forces of the United States of America under conditions other than dishonorable;
- (3) Is not eligible, at the time of application for a waiver under this section, for educational benefits under any federal veterans benefit program;
- (4) Is an undergraduate student working towards a degree on any campus of the University of Hawaii; and
- (5) Is a resident of the State of Hawaii, as defined by the board of regents under section 304-4.

(b) For the purpose of this section:

"Regular academic year" means the September to May academic year of the day program;

"Vietnam era" means the period from August 5, 1964, to May 7, 1975.

(c) No person shall be granted tuition waivers for more than five regular academic years. No tuition shall be waived for courses offered under the programs of the college of continuing education and community services. No tuition waiver shall be granted for any regular academic year which begins after September 1990.

(d) To be eligible for a tuition waiver, an applicant shall obtain certification from the federal Veterans Administration that the veteran meets the qualifications under subsection (a)(1), (2), and (3) and present the certification to the university at the time of application for the waiver.

(e) A tuition waiver under this section shall be considered a financial aid unit for the purpose of computing the maximum allowable financial aid units authorized for an academic year under section 304-17.

(f) The board of regents may request the federal Veterans Administration to submit reports periodically on the impact and benefit of the tuition waivers granted under this section.

(g) The board of regents may adopt, amend, and repeal rules in accordance with chapter 91 which are necessary for the implementation of this section.

(h) This section is repealed on June 30, 1991."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 310

H.B. NO. 2715-86

A Bill for an Act Relating to Massage.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that with the emphasis on fitness and health in society today, there are more people engaging in therapeutic forms of

exercise and stress-relieving activities, such as massage. As a result of this trend, there has been a commensurate increase in the number of massage therapists practicing in Hawaii.

The legislature also finds that with this increase in the number of massage therapists practicing in Hawaii have come an increased number of massage techniques and modalities, and that in the interest of requisite administration and oversight of the practice of massage offered to the citizens of Hawaii, the Board of Massage is highly encouraged to develop routine examinations for each of the several massage specialties, at no cost to the State, so that within a reasonable time licensed practitioners of all massage techniques and modalities will have satisfied professional qualification requirements.

SECTION 2. Chapter 452, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§452- Disciplinary actions. (a) The board may take disciplinary action against any licensee, including, but not limited to, revocation, suspension, fine, or a combination thereof, or may refuse to grant or renew a license for any of the following reasons:

- (1) Procuring a license through fraud, misrepresentation, or deceit or permitting an unlicensed person to perform activities which require a license under this chapter;
- (2) Conviction of any crime involving moral turpitude;
- (3) Practicing massage while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- (4) Failure to display a license as provided in this chapter;
- (5) Professional misconduct, gross carelessness, or manifest incapacity in the practice of massage;
- (6) Violating this chapter or the rules adopted pursuant thereto;
- (7) Failing to comply with a board order;
- (8) Any other conduct constituting fraudulent or dishonest dealings;
- (9) Making a false statement on any document submitted or required to be filed by this chapter; or
- (10) Any representation, or the use of any designation, which states or implies that the person is able to perform a technique of massage which the person is not trained to perform.

(b) Any person who violates any of the provisions of this chapter or the rules adopted pursuant thereto shall be fined not less than \$100 nor more than \$1,000 for each violation."

SECTION 3. Section 452-14, Hawaii Revised Statutes, is amended to read as follows:

"§452-14 Examination. The examination of applicants for licenses to practice massage shall be conducted under rules prescribed by the board and shall include both practical demonstrations and written or oral tests and shall not be confined to any specific system or method, and such examination shall be consistent with the practical and theoretical requirements of the occupation as provided by this chapter.

Any law to the contrary notwithstanding, the department of commerce and consumer affairs, or the board, may contract with professional testing services to prepare, administer, and grade examinations and tests for license applicants under this chapter. For these purposes, the department of commerce and consumer affairs or the board may require applicants to pay the examination fee directly to the testing agency."

SECTION 4. Section 452-23, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) It is a misdemeanor for any person to advertise as a massage therapist, a massage establishment, or an out-call massage service unless the person holds a valid license under this chapter in the classification so advertised. It shall also be a misdemeanor for any person to advertise as being able to perform massage in any form unless the person has received training in the massage technique that is being advertised. “Advertise” as used in this section includes, but is not limited to, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building, vehicle, or structure, or advertising in any newspaper or magazine, or advertising other than in-column listings in any directory, or commercials broadcast by airwave transmission, with or without any limiting qualifications.

(b) A licensee may advertise in print or broadcast media as defined in subsection (a) only if the licensee includes in the advertisement the licensee’s applicable and current license number and provides proof of the number’s validity to the publisher or producer of the advertising medium. The publisher or producer of a print or broadcast advertising medium shall refuse to publish or broadcast an advertisement for a licensee who does not provide proof of current license registration and who does not include a currently valid license number in the advertisement. Nothing in this section shall impose any civil or criminal liability on any publisher or producer who publishes or broadcasts an advertisement based on a good faith reliance on documents presented or representations made by the person placing the advertisement indicating that the advertisement complies with the requirements of this section.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

Note

1. No bracketed material. Edited pursuant to HRS §23G-16.5.

ACT 311

H.B. NO. 2752-86

A Bill for an Act Making an Appropriation for the “Dial Law” Program of the Hawaii Bar Association.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to provide funds to enable the Hawaii Bar Association to offer free recorded information by telephone on a wide range of legal subjects.

The legislature finds that there is a need for free general legal information for members of the public with legal questions, and that the “Dial Law” service being proposed by the Hawaii Bar Association would provide useful legal information.

The “Dial Law” service would provide the people of Hawaii with easy telephone access to recordings about broad areas of law such as Family Law, Landlord/Tenant Law, Civil Rights, Bankruptcy, Employment Law, and Criminal Law. The legislature finds that “Dial Law” type systems have met

ACT 312

with great success in other communities and may improve public access to, and understanding of, the legal system.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$22,500, or so much thereof as may be necessary for fiscal year 1986-1987, to support the "Dial Law" program of the Hawaii Bar Association; provided that no funds shall be made available under this Act unless the Hawaii Bar Association provides matching funds.

SECTION 3. The sum appropriated shall be expended by the judiciary for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

ACT 312

H.B. NO. 2756-86

A Bill for an Act Relating to Real Estate.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 467, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§467- License issued after a revocation or automatic termination. A person whose license has been revoked, or automatically terminated in accordance with section 467-18(e), may apply for a license as a new applicant after the revocation period and, if applicable, after repayment to the real estate recovery fund. Any person who was previously licensed as a broker, shall apply as a salesman. Any person who was previously licensed as a salesman, shall apply as a salesman. A new applicant refused licensure as a broker pursuant to this section shall not be entitled to a hearing on that refusal. The commission may recognize an applicant's education, examination score, and experience previously used to satisfy the requirements of sections 467-8(2), and 467-9.5(2), (3) and (4), and commission rules relating thereto."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 313

H.B. NO. 2189-86

A Bill for an Act Relating to Savings and Loan Associations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 407, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

"§407- Definitions. For purposes of sections 407- to 407- :

"Acting in concert" means (1) knowing participation in a joint activity or interdependent conscious parallel action towards a common goal whether or not pursuant to an express agreement; (2) a combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement, or other arrangement, whether written or otherwise, or (3) action in concert with a person or company which shall also be deemed to be action in concert with any person or company that is acting in concert with such other person or company.

"Association" means an association organized under the laws of the State pursuant to the provisions of this chapter and does not include foreign association or corporation as referred to in section 407-22.

"Commissioner" means the commissioner of financial institutions.

"Control" shall mean when a person, directly or indirectly, or through one or more subsidiaries, or through one or more transactions, or acting in concert with one or more persons:

- (1) Owns, controls, or holds with power to vote twenty-five per cent or more of any class of voting stock of an association, foreign association, savings and loan holding company, or foreign holding company; or
- (2) Holds general, irrevocable proxies representing twenty-five per cent or more of any class of voting stock of an association, foreign association, savings and loan holding company, or foreign holding company; or
- (3) Controls in any manner the election of a majority of the directors of an association, foreign association, savings and loan holding company, or foreign holding company; or
- (4) After notice and opportunity for a hearing, the commissioner finds that the person has the power directly or indirectly to exercise a controlling influence over the management of an association, foreign association, savings and loan holding company, or foreign holding company.

"Foreign association" means any association referred to in section 407-22.

"Foreign holding company" means any individual not residing in the State or any other entity not chartered or otherwise organized under the laws of the State who directly or indirectly controls an association or foreign association.

"Person" means any individual or any other entity.

"Savings and loan holding company" means any individual residing in the State or any other entity chartered or otherwise organized under the laws of the State who directly or indirectly controls an association.

"Voting stock" means stock or shares in any corporation or association (whether represented by a certificate or passbook), general or limited partnership shares or interests, or similar interests if the stock, shares, or interests, by statute, charter or in any manner, entitle the holder:

- (1) To vote for or to select directors, trustees, or partners (or persons exercising similar functions of the association);
- (2) To vote or to direct the conduct of the operations or other significant policies of the association; provided that stock, limited partnership shares, or interests, or securities are not "voting stock" if:
 - (A) Voting rights associated with the stock, shares, or interests are limited solely to the type customarily provided by statute with regard to matters that would significantly and adversely affect

the rights or preference of the stock, security, or other interest, such as the issuance of additional amounts or classes of senior securities, the modification of the terms of the stock, security, or interest, the dissolution of the issuer, or the payment of dividends by the issuer when preferred dividends are in arrears; or

- (B) The stock, shares, or interests represent an essentially passive investment or financing device and do not otherwise provide the holder with control over the issuer; or
- (C) The stock, shares, or interests do not entitle the holder, by statute, charter, or otherwise to select or to vote for the selection of directors, trustees, or partners (or persons exercising similar functions) of the issuer; provided that notwithstanding the foregoing, "voting stock" shall include stock and other securities that, upon transfer or otherwise, are convertible into voting stock or exercisable to acquire voting stock where the holder of the stock, convertible security, or right to acquire voting stock has the preponderant economic risk in the underlying voting stock. Securities immediately convertible into voting stock at the option of the holder without payment of additional consideration shall be deemed to constitute the voting stock into which they are convertible; other convertible securities and rights to acquire stock shall not be deemed to vest the holder with the preponderant economic risk in the underlying voting stock if the holder has paid less than fifty per cent of the consideration required to directly acquire the voting stock and has no other economic interest in the underlying voting stock.

§407- Restrictions on acquiring control. (a) A person who is not already in control of an association, foreign association, savings and loan holding company, or foreign holding company, shall not acquire control of any such entities, directly or indirectly, individually or in concert with others, unless the commissioner shall have given prior approval to the proposed acquisition.

(b) The proposed acquirer shall submit a written application for such approval in such form as may be prescribed by the commissioner. The application shall be verified under oath and shall contain such information regarding the proposed acquirer and such details concerning the acquisition as the commissioner shall require. Within fifteen business days after receiving the application, the commissioner may request the production of any additional information necessary in deciding whether to approve the acquisition, and the proposed acquirer shall submit such information within a reasonable time thereafter, as may be specified by the commissioner.

(c) After receiving the proposed acquirer's application for approval, the commissioner shall promptly forward a copy of the application to the affected association, foreign association, savings and loan holding company, or foreign holding company. Such entities shall have ten days after receipt of such copy within which to submit any relevant information to the commissioner regarding the proposed acquisition, and shall be entitled to appear and be heard at any hearing on the application.

(d) Any person submitting information to the commissioner pursuant to this section may request that such information be kept confidential. Such request shall be made in writing and shall set forth the specific items sought to be kept confidential and the basis for the request. The commissioner may, pursuant to

such request or otherwise, determine that good cause exists to keep such information confidential, and may thereupon keep the same confidential and not subject to public disclosure.

(e) If the commissioner intends to disapprove of the proposed acquisition of control, the commissioner shall send to the proposed acquirer a written notice of such intent. Such notice must be sent within sixty days following the commissioner's receipt of the application (or thirty days, in the event the proposed acquisition will be accomplished by way of a tender offer); provided, however, that if the commissioner has requested additional information from the proposed acquirer, such sixty-day period (or thirty-day period, in the case of a tender offer as aforesaid) shall not commence until all such additional information shall have been submitted by the proposed acquirer; provided further that if such notice of intent to disapprove is not sent within the time specified, the commissioner shall be deemed to have approved the application.

Within ten days after receipt of the commissioner's notice of intent to disapprove the application, the proposed acquirer may request an administrative hearing, to be held in accordance with chapter 91. If no such request is made, the commissioner's disapproval shall become final. If after such hearing the commissioner finally disapproves the proposed acquisition, the proposed acquirer may, within thirty days of the date of said final decision, appeal to the circuit court of the first circuit as provided in chapter 91.

(f) As a condition for approving the proposed acquisition, the commissioner shall impose a reasonable time period, not to exceed six months, within which the acquisition must occur.

(g) This section shall not apply to:

- (1) Any acquisition or proposed acquisition of control which affects any association or foreign association that has been placed into receivership or conservatorship, or which is, in whole or in part, initiated or approved for supervisory assistance purposes by the commissioner or any other state agency or by the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or any Federal Home Loan Bank; or
- (2) Any acquisition or proposed acquisition of control by a donee pursuant to an inter vivos gift (provided that said gift is not made or created or intended to avoid this section and provided further that notice of the acquisition and such further information as may be required by the commissioner is given to the commissioner at least thirty days prior to the consummation of the acquisition), or by a distributee as defined in chapter 560.

§407- Basis for disapproval. (a) The commissioner may disapprove any proposed acquisition of an association, foreign association, savings and loan holding company, or foreign holding company upon a determination that:

- (1) The experience, character, general fitness, financial responsibility, and resources and managerial resources of the acquiring person and of the officers, directors, and controlling shareholders of a corporation or the partners, members, or principals of an entity other than a corporation are not such as to command the confidence of the community and do not warrant belief that the business of the affected association will be operated honestly, fairly, and efficiently within the purposes of this chapter; or
- (2) The convenience, needs, and advantage of the locality or community in which the affected association or foreign association conducts its business will not be promoted by allowing the acquiring person

- to acquire control, directly or indirectly, of the affected association or foreign association; or
- (3) The proposed acquisition of control by the acquiring persons will substantially lessen competition or tend to create a monopoly or in any other manner tend to be a restraint of trade or have any other anti-competitive effect in the savings and loan industry in the State, provided that the anti-competitive effects are not clearly outweighed by the public interest in meeting the convenience and needs of the community to be served; or
- (4) The financial condition of the acquiring person is such as might jeopardize the financial stability of the association, foreign association, savings and loan holding company, or foreign holding company or prejudice the interests of the depositors of the association; or
- (5) The competence, experience, or integrity of the acquiring person or any of the proposed management personnel indicates that it would not be in the best interests of the depositors of the association or foreign association involved or the public to permit the acquiring person to control the association, foreign association, savings and loan holding company, or foreign holding company; or
- (6) The acquiring person has failed or refused to furnish information requested by the commissioner.

§407- Enforcement and penalties. (a) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of sections 407- to 407- , the commissioner, in the commissioner's sole discretion, may refer such evidence to the attorney general who may bring an action in any court of competent jurisdiction to enjoin such act or practice, to enforce compliance with aforesaid sections, and to impose a civil penalty not to exceed \$100,000. The affected association, foreign association, savings and loan holding company, or foreign holding company shall have standing to bring an action in any court of competent jurisdiction to enjoin any person from any act or practice which constitutes a violation of any provision of sections 407- to 407- , and to obtain such other relief as the court may deem appropriate.

(b) Upon a proper showing, the court may:

- (1) Grant a permanent or temporary injunction or restraining order;
- (2) Order rescission of any sales or purchases of voting securities or assets determined to be unlawful under this section;
- (3) Impose a civil penalty not to exceed \$100,000;
- (4) Award damages to any injured person; and
- (5) Award such other relief as the court deems just and proper, including directing the affected association to refuse to transfer such securities on its books and to refuse to recognize any vote with respect to such securities.

(c) A person who successfully brings an action under this section shall be entitled to recover reasonable costs and attorney's fees.

(d) The rights and remedies of this section are in addition to any other rights or remedies that may exist at law or in equity."

SECTION 2. The title of chapter 443A, Hawaii Revised Statutes, is amended to read as follows:

**“[] CHAPTER 443A[]”
[COLLECTION AGENCIES]
DEBT COLLECTION PRACTICES”**

SECTION 3. Section 443A-1, Hawaii Revised Statutes, is amended to read as follows:

“§443A-1 Definitions. As used in this chapter:

- [(1)] “Person” includes an individual, partnership, joint venture, corporation, association, business, trust, or any organized group of persons, or any combination thereof.
- (2)] “Collection agency” means any person who by himself or through others offers to undertake or holds himself out as being able to undertake or does undertake to collect for another person, claims or money due on accounts or other forms of indebtedness for a commission, fixed fee, or a portion of the sums so collected.

[(3)] “Collection agency” includes:

- [(A)] (1) Any [person] debt collector using any name other than his own in collecting his own claims with the intention of conveying, or which tends to convey the impression that a third party has been employed;
- [(B)] (2) Any [person] debt collector who, in the conduct of his business for a fee, regularly repossesses any merchandise or chattels for another;
- [(C)] (3) Any [person] debt collector who regularly accepts the assignment of claims or money due on accounts or other forms of indebtedness and brings suits upon such assigned claims or money due on accounts or other forms of indebtedness in his own name, provided that any such suits shall be initiated and prosecuted by an attorney who shall have been appointed by the assignor; provided[,] further[,] that any person who by himself or through others offers to undertake or holds himself out as being able to undertake or does undertake to collect for another person the amounts due under any agreement which provides for installment payments and which is secured by an interest in real property, including without limitation, mortgage loans and agreements of sale, whether or not such collection servicing agent receives any compensation or other consideration for his services, shall fall within the purview of chapter 454D.

[(4)] “Collection agency” does not include attorneys at law or district court practitioners acting within the scope of their profession, licensed real estate brokers and salesmen residing in this State when engaged in the regular practice of their respective profession, nor banks, trust companies, building and loan associations, companies doing an escrow business, individuals regularly employed on a regular wage or salary in the capacity of credit men or in other similar capacity for a single employer who is not a collection agency, for any person doing business subject to public supervision and regulation, and any public officer or any person acting under an order of court.]

“Consumer collector” means a person who regularly collects or attempts to collect, directly or indirectly, debts of a natural person incurred primarily for personal, family, or household purposes owed or due or asserted to be owed or due either to the collector or another.

“Debt collector” means a collection agency or a consumer collector.

“Person” includes an individual, partnership, joint venture, corporation, association, business, trust, savings and loan association, or any organized group of persons, or any combination thereof.

[(5)] “Principal collector” means a person who has been designated by a collection agency to assume responsibility for the operations and activities of its agency.”

SECTION 4. Section 443A-6, Hawaii Revised Statutes, is amended to read as follows:

“[]§443A-6[] Fees. A [collection agency] debt collector shall not collect, or attempt to collect, any collection fee or attorney’s fee or commission from any debtor; provided attorney’s fee or commission may be collected after filing of a suit against any debtor and such fee or commission shall not be in excess of twenty-five per cent of the unpaid principal balance. All attorney’s fees or commissions collected by a [collection agency] debt collector shall be remitted to the attorney [and no portion of said collection shall be retained by the collection agency].”

SECTION 5. Section 443A-12, Hawaii Revised Statutes, is amended to read as follows:

“[]§443A-12[] Threats or coercion. No [collection agency] debt collector shall collect or attempt to collect any money alleged to be due and owing by means of any threat, coercion, or attempt to coerce, including any conduct which is described as follows:

- (1) The use, or express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person;
- (2) The accusation or threat to falsely accuse any person of fraud or any crime or any conduct which, if true, would tend to disgrace such other person or in any way subject him to ridicule or any conduct which, if true, would tend to disgrace such other person or in any way subject him to the ridicule or contempt of society;
- (3) False accusations made to another person, including any credit reporting agency that a debtor or an alleged debtor has not paid a just debt, or threat to so make such false accusations;
- (4) The threat to sell or assign to another the obligation of a debtor or an alleged debtor with an attending representation or implication that the result of such sale or assignment would be that the debtor or alleged debtor would lose any defense to the claim or would be subjected to harsh, vindictive, or abusive collection attempt; and
- (5) The threat that nonpayment of an alleged claim will result in the arrest of any person.”

SECTION 6. Section 443A-13, Hawaii Revised Statutes, is amended to read as follows:

“[]§443A-13[] Harassment and abuse. No [collection agency] debt collector shall oppress, harass, or abuse any person in connection with the collection of or attempt to collect any claim alleged to be due and owing by that person or another in any of the following ways:

- (1) The use of profane or obscene language that is intended to abuse the hearer or reader;

- (2) The placement of telephone calls without disclosure of the caller's identity or with the intent to harass, or threaten any person at the called number; and
- (3) Causing expense to any person in the form of long distance telephone tolls, telegram fees, or other charge incurred by a medium of communication, by concealment of the true purpose of the notice, letter, message, or communication."

SECTION 7. Section 443A-14, Hawaii Revised Statutes, is amended to read as follows:

"[[§443A-14[]] **Unreasonable publication.** No [collection agency] debt collector shall unreasonably publicize information relating to any alleged indebtedness or debtor, in any of the following ways:

- (1) The disclosure, publication, or communication of any false information relating to the indebtedness of a debtor or alleged debtor to any employer or his agent;
- (2) The disclosure, publication, or communication of false information relating to the indebtedness of a debtor or alleged debtor to any relative or family member of the debtor or alleged debtor;
- (3) The disclosure, publication, or communication of any information by a collection agency relating to the indebtedness of a debtor or alleged debtor by publishing or posting any list of debtors, except for the publication of "stop lists" to point-of-sale locations where credit is extended, or by advertising for sale any claim to enforce payment thereof or in any other manner other than through proper legal action, process, or proceeding; and
- (4) The use of any form of communication by a collection agency to the debtor or alleged debtor, which ordinarily may be seen by any other person, that displays or conveys any information about the alleged claim other than the name, address, and phone number of the collection agency."

SECTION 8. Section 443A-15, Hawaii Revised Statutes, is amended to read as follows:

"[[§443A-15[]] **Fraudulent, deceptive, or misleading representations.** No [collection agency] debt collector shall use any fraudulent, deceptive, or misleading representation or means to collect, or attempt to collect, claims or to obtain information concerning a debtor or alleged debtor, including any conduct which is described as follows:

- (1) The use of any company name while engaged in the collection of claims other than the true name of the collection agency;
- (2) The failure to clearly disclose in all written communication made to collect, or attempt to collect, a claim or to obtain, or attempt to obtain, information about a debtor or alleged debtor that the collection agency is attempting to collect a claim and that any information obtained will be used for that purpose;
- (3) Any false representation that the collection agency has in his possession information or something of value for the debtor or alleged debtor that is made to solicit or discover information about the debtor or alleged debtor;
- (4) The failure to clearly disclose the name and full business address of the person to whom the claim has been assigned for collection or to

whom the claim is owed at the time of making any demand for money;

- (5) Any false representation or implication of the character, extent, or amount of a claim against a debtor or alleged debtor, or of its status in any legal proceeding;
- (6) Any false representation or false impression that any collection agency is vouched for, bonded by, affiliated with, or an instrumentality, agent, or official of, this State or any agency of federal, state, or local government;
- (7) The use or distribution or sale of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by a court, an official, or any other legally constituted or authorized authority, or which creates a false impression about its source, authorization, or approval;
- (8) Any representation that an existing obligation of the debtor or alleged debtor may be increased by the addition of attorney's fees, investigation fees, service fees, and any other fees or charges when in fact such fees or charges may not legally be added to the existing obligations; or
- (9) Any false representation or false impression about the status or true nature of, or the services rendered by, the collection agency or its business."

SECTION 9. Section 443A-16, Hawaii Revised Statutes, is amended to read as follows:

"[] §443A-16[]] **Unfair or unconscionable means.** No [collection agency] debt collector shall use unfair or unconscionable means to collect or attempt to collect any claim in any of the following ways:

- (1) The seeking or obtaining of any written statement or acknowledgment in any form that a debtor or alleged debtor's obligation is one incurred for necessities of life where the original obligation was not in fact incurred for such necessities;
- (2) The seeking or obtaining of any written statement or acknowledgment in any form containing an affirmation of any obligation by a debtor or alleged debtor who has been declared bankrupt, without clearly disclosing the nature and consequences of the affirmation and the fact that the debtor or alleged debtor is not legally obligated to make the affirmation;
- (3) The collection of or the attempt to collect from a debtor or alleged debtor all or any part of the collection agency's fees or charges for services rendered;
- (4) The collection of or the attempt to collect any interest or other charge, fee, or expense incidental to the principal obligation unless the interest or incidental fee, charge, or expense is expressly authorized by the agreement creating the obligation and legally chargeable to the debtor or alleged debtor; or unless such interest or incidental fee, charge, or expense is expressly authorized by law; and
- (5) Any communication with a debtor or alleged debtor whenever it appears that he is represented by an attorney and the attorney's name and address are known."

SECTION 10. Section 443A-17, Hawaii Revised Statutes, is amended to read as follows:

“**[§443A-17]** **Unfair competition, unfair or deceptive acts or practices.** A violation of this chapter by a [collection agency] debt collector shall constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce for the purpose of section 480-2.”

SECTION 11. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 12. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 14. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 314

H.B. NO. 100

A Bill for an Act Relating to the Penal Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Sections 701-100 to 701-101, Hawaii Revised Statutes, are amended to read as follows:

“**§701-100 Title and effective date of amendments.** Title 37 shall be known as the Hawaii Penal Code. [It] Amendments made to this Code by Act , Session Laws of Hawaii 1986, shall become effective on [January 1, 1973.] January 1, 1987.

§701-101 Applicability to offenses committed before the effective date of amendments. (1) Except as provided in subsections (2) and (3), amendments made by Act , Session Laws of Hawaii 1986, to this Code [does] do not apply to offenses committed before [its] the effective date[.] of Act , Session Laws of Hawaii 1986. Prosecutions for offenses committed before the effective date of Act , Session Laws of Hawaii 1986, are governed by the prior law, which is continued in effect for that purpose, as if amendments made by Act , Session Laws of Hawaii 1986, to this Code were not in force. For purposes of this section, an offense is committed before the effective date of Act , Session Laws of Hawaii 1986, if any of the elements of the offense occurred before that date.

(2) In any case pending on or commenced after the effective date of amendments made by Act , Session Laws of Hawaii 1986, to this Code, involving an offense committed before that date[:

- (a) Upon the request of the defendant a defense or mitigation under this Code, whether specifically provided for herein or based upon the failure of the Code to define an applicable offense, shall apply; and
- (b) Upon the request of the defendant and the approval of the court:

- (i) Procedural provisions of this Code shall apply insofar as they are justly applicable; and
- (ii) The court may impose a sentence or suspend imposition of a sentence under the provisions of this Code applicable to the offense and the offender.

(3) Provisions of this Code governing the release or discharge of prisoners, probationers, and parolees shall apply to persons under sentence for offenses committed before the effective date of this Code, except that the minimum or maximum period of their detention or supervision shall in no case be increased, nor shall the provisions of this Code affect the substantive or procedural validity of any judgment of conviction entered before the effective date of this Code, regardless of the fact that appeal time has not run or that an appeal is pending.] upon the request of the defendant, and subject to the approval of the court, the provisions of chapter 706 amended by Act , Session Laws of Hawaii 1986, may be applied in particular cases."

SECTION 2. Section 701-105, Hawaii Revised Statutes, is amended to read as follows:

"§701-105 Effect of commentary. The commentary accompanying [the Judicial Council of Hawaii's proposed draft of the Hawaii Penal Code (1970), as revised,] this Code shall be published and may be used as an aid in understanding the provisions of this Code, but not as evidence of legislative intent."

SECTION 3. Section 701-117, Hawaii Revised Statutes, is amended to read as follows:

"§701-117 Prima facie evidence. Prima facie evidence of a fact is evidence which, if accepted in its entirety by the trier of fact, is sufficient to prove the fact[, provided that no evidence negating the fact, which raises a reasonable doubt in the mind of the trier of fact, is introduced]. Prima facie evidence provisions in this Code are governed by section 626-1, rule 306."

SECTION 4. Section 702-206, Hawaii Revised Statutes, is amended by amending subsections (3) and (4) to read as follows:

"(3) "Recklessly."

- (a) A person acts recklessly with respect to his conduct when he consciously disregards a substantial and unjustifiable risk [by engaging in such conduct.] that the person's conduct is of the specified nature.
- (b) A person acts recklessly with respect to attendant circumstances when he consciously disregards a substantial and unjustifiable risk that such circumstances exist.
- (c) A person acts recklessly with respect to a result of his conduct when he consciously disregards a substantial and unjustifiable risk that his conduct will cause such a result.
- (d) A risk is substantial and unjustifiable within the meaning of this section if, considering the nature and purpose of the person's conduct and the circumstances known to him, the disregard of the risk involves a gross deviation from the standard of conduct that a law-abiding person would observe in the same situation.

(4) "Negligently."

- (a) A person acts negligently with respect to his conduct when he should be aware of a substantial and unjustifiable risk taken [by

engaging in such conduct.] that the person's conduct is of the specified nature.

- (b) A person acts negligently with respect to attendant circumstances when he should be aware of a substantial and unjustifiable risk that such circumstances exist.
- (c) A person acts negligently with respect to a result of his conduct when he should be aware of a substantial and unjustifiable risk that his conduct will cause such a result.
- (d) A risk is substantial and unjustifiable within the meaning of this subsection if the person's failure to perceive it, considering the nature and purpose of his conduct and the circumstances known to him, involves a gross deviation from the standard of care that a law-abiding person would observe in the same situation."

SECTION 5. Section 703-300, Hawaii Revised Statutes, is amended to read as follows:

"§703-300 Definitions relating to justification. In this chapter, unless a different meaning is plainly required:

[(1)] "Believes" means reasonably believes.

[(2)] "Force" means any bodily impact, restraint, or confinement, or the threat thereof.

[(3)] "Unlawful force" means force which is employed without the consent of the person against whom it is directed and the employment of which constitutes an offense or would constitute an offense except for a defense not amounting to a justification to use the force. Assent constitutes consent, within the meaning of this section, whether or not it otherwise is legally effective, except assent to the infliction of death or serious or substantial bodily injury.

[(4)] "Deadly force" means force which the actor uses with the intent of causing or which he knows to create a substantial risk of causing death or serious bodily harm. Intentionally firing a firearm in the direction of another person or in the direction which another person is believed to be constitutes deadly force. A threat to cause death or serious bodily injury, by the production of a weapon or otherwise, so long as the actor's intent is limited to creating an apprehension that he will use deadly force if necessary, does not constitute deadly force.

[(5)] "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is for the time being a home or place of lodging."

SECTION 6. Section 703-302, Hawaii Revised Statutes, is amended to read as follows:

"§703-302 Choice of evils. (1) Conduct which the actor believes to be necessary to avoid an imminent harm or evil to himself or to another is justifiable provided that:

- (a) The harm or evil sought to be avoided by such conduct is greater than that sought to be prevented by the law defining the offense charged; and
- (b) Neither the Code nor other law defining the offense provides exceptions or defenses dealing with the specific situation involved; and
- (c) A legislative purpose to exclude the justification claimed does not otherwise plainly appear.

(2) When the actor was reckless or negligent in bringing about the situation requiring a choice of harms or evils or in appraising the necessity for his conduct, the justification afforded by this section is unavailable in a prosecution for any offense for which recklessness or negligence, as the case may be, suffices to establish culpability.

(3) In a prosecution for escape under section 710-1020 or 710-1021, the defense available under this section is limited to an affirmative defense consisting of the following elements:

- (a) The actor receives a threat, express or implied, of death, substantial bodily injury, or forcible sexual attack;
- (b) Complaint to the proper prison authorities is either impossible under the circumstances or there exists a history of futile complaints;
- (c) Under the circumstances there is no time or opportunity to resort to the courts;
- (d) No force or violence is used against prison personnel or other innocent persons; and
- (e) The actor promptly reports to the proper authorities when the actor has attained a position of safety from the immediate threat."

SECTION 7. Section 704-406, Hawaii Revised Statutes, is amended to read as follows:

"§704-406 Effect of finding of unfitness to proceed. (1) If the court determines that the defendant lacks fitness to proceed, the proceeding against him shall be suspended, except as provided in section 704-407, and the court shall commit him to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment [for so long as such unfitness shall endure]. If the court is satisfied that the defendant may be released on condition without danger to himself or to the person or property of others, the court shall order his release, which shall continue at the discretion of the court, on such conditions as the court determines necessary. A copy of the report filed pursuant to section 704-404 shall be attached to the order of [commitment] commitment or order of conditional release.

(2) When the court, on its own motion or upon the application of the director of health, the prosecuting attorney, or the defendant, determines, after a hearing if a hearing is requested, that the defendant has regained fitness to proceed, the penal proceeding shall be resumed. If, however, the court is of the view that so much time has elapsed since the commitment or conditional release of the defendant that it would be unjust to resume the proceeding, the court may dismiss the charge and may order the defendant to be discharged or, subject to the law governing the involuntary hospitalization or conditional release of persons suffering from physical or mental disease, disorder, or defect, order the defendant to be committed to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment or order the defendant to be released on such conditions as the court determines necessary.

(3) Within a reasonable time following any commitment under subsection (1), the director of health shall report to the court whether or not the defendant presents a substantial likelihood of becoming fit to proceed in the future. If, following such a report, the court determines that the defendant will probably remain unfit to proceed, the court may dismiss the charge and release the defendant or subject the defendant to involuntary civil commitment procedures."

SECTION 8. Section 704-411, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

“(3) When ordering such a hearing the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case the court shall appoint at least one psychiatrist and at least one [certified clinical] licensed psychologist. The third member may be either a psychiatrist, [certified clinical] licensed psychologist, or a qualified physician. One of the three shall be a psychiatrist or [certified clinical] licensed psychologist designated by the director of health from within the department of health. To facilitate such examination and the proceedings thereon, the court may cause the defendant, if not then so confined, to be committed to a hospital or other suitable facility for the purpose of examination and may direct that qualified physicians retained by the defendant be permitted to witness and participate in the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 704-404(3), (4)(a) and (b), (6), (7), (8), and (9). As used in this section, the term “licensed psychologist” includes psychologists exempted from licensure by chapter 465-3(3).”

SECTION 9. Section 704-414, Hawaii Revised Statutes, is amended to read as follows:

“§704-414 Procedure upon application for discharge, conditional release, or modification of conditions of release. Upon filing of an application pursuant to section 704-412 for discharge or conditional release, or upon the filing of an application pursuant to section 704-413 for discharge or for modification of conditions of release, the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case the court shall appoint at least one psychiatrist and at least one [certified clinical] licensed psychologist. The third member may be either a psychiatrist, [certified clinical] licensed psychologist or qualified physician. One of the three shall be a psychiatrist or [certified clinical] licensed psychologist designated by the director of health from within the department of health. To facilitate such examination and the proceedings thereon, the court may cause such person, if not then so confined, to be committed to a hospital or other suitable facility for the purpose of the examination and may direct that qualified physicians retained by the person be permitted to witness and participate in the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 704-404(3), (4)(a) and (b), (6), (7), (8), and (9). As used in this section, the term “licensed psychologist” includes psychologists exempted from licensure by chapter 465-3(3).”

SECTION 10. Section 706-600, Hawaii Revised Statutes, is amended to read as follows:

“§706-600 Sentence in accordance with this chapter. No sentence shall be imposed [or suspended] otherwise than in accordance with this chapter.”

SECTION 11. Section 706-601, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) The court shall order a pre-sentence correctional diagnosis of the defendant and accord due consideration to a written report of the diagnosis before [suspending or] imposing sentence where:

(a) The defendant has been convicted of a felony; or

- (b) The defendant is less than twenty-two years of age and has been convicted of a crime.”

SECTION 12. Section 706-603, Hawaii Revised Statutes, is amended to read as follows:

“§706-603 Pre-sentence mental and medical examination. Before [suspending or] imposing sentence, the court may order a defendant who has been convicted of a felony or misdemeanor to submit to mental and other medical observation and examination for a period not exceeding sixty days or such longer period, not to exceed the length of permissible imprisonment, as the court determines to be necessary for the purpose. The defendant may be remanded for this purpose to any available clinic or hospital, intake service center, or community correctional center and, in addition thereto or in the alternative, the court may appoint one or more qualified psychiatrists, physicians, or [certified clinical] licensed psychologists to make the examination. [If a single examiner is appointed, he shall be a qualified psychiatrist or certified clinical psychologist. If a three-member panel is appointed one shall be a psychiatrist and one shall be a certified clinical psychologist. The third member may be either a psychiatrist, certified clinical psychologist, or qualified physician. One of the three shall be a psychiatrist or certified clinical psychologist designated by the director of health from within the department of health.] The report of the examination shall be submitted to the court. As used in this section, the term “licensed psychologist” includes psychologists exempted from licensure by chapter 465-3(3).”

SECTION 13. Section 706-604, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) Before [suspending or] imposing sentence, the court shall afford a fair opportunity to the defendant to be heard on the issue of his disposition.”

SECTION 14. Section 706-605, Hawaii Revised Statutes, is amended to read as follows:

“§706-605 Authorized disposition of convicted defendants. (1) Except as provided in [section 706-606] parts II and IV of this chapter and subsection (2) of this section and subject to the applicable provisions of this Code, the court may [suspend the imposition of sentence on a person who has been convicted of a crime, may order the person to be committed in lieu of sentence in accordance with section 706-607, or may sentence the person as follows:] sentence a convicted defendant to one or more of the following dispositions:

- (a) To be placed on probation as authorized by part II of this chapter; [or]
- (b) To pay a fine as authorized by part III and section 706-624 of this chapter; [or]
- (c) To be imprisoned for a term as authorized by part IV of this chapter; [or]
- (d) To pay a fine and to probation or to pay a fine and to imprisonment, but not to probation and imprisonment, except as authorized by part II of this chapter; or
- (e) [(d)] To make restitution [or reparation to the victim or victims of the person’s crime] in an amount the [person] defendant can afford to pay[, for loss or damage caused thereby in addition to paragraph (a), (b), (c), (d), or (f) of this subsection (1)];
- [(f)] (e) To perform services for the community under the supervision of a governmental agency or benevolent or charitable organization or

other community service group or [under] appropriate [supervision, or to perform such services and to probation, as the court may direct,] supervisor, provided that the convicted person who performs such services shall not be deemed to be an employee for any purpose. [The extent of services required shall be stated in the judgment. The court shall not sentence the convicted person only to perform such services unless, having regard to the nature and circumstances of the crime and to the history and character of the defendant, it is of the opinion that the performance of such services alone suffices for the protection of the public.]

(2) The court shall not sentence a defendant to probation and imprisonment except as authorized by part II of this chapter.

(3) In addition to any disposition authorized in subsection (1) of this section, the court may sentence a person convicted of a misdemeanor or petty misdemeanor to a suspended sentence.

[(2)] (4) The court may [suspend the imposition of sentence on] sentence a person who has been convicted of a violation[, may sentence the person to pay a fine authorized by part III of this chapter, or may sentence the person to perform services for the community as authorized by subsection (1)(f) of this section.] to any disposition authorized in subsection (1) of this section except imprisonment.

[(3)] (5) The court shall sentence a corporation or unincorporated association which has been convicted of an offense in accordance with section 706-608.

[(4)] (6) This chapter does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence."

SECTION 15. Section 706-606, Hawaii Revised Statutes, is amended to read as follows:

"§706-606 [Sentence for offense of murder. The court shall sentence a person who has been convicted of murder to an indeterminate term of imprisonment. In such cases the court shall impose the maximum length of imprisonment as follows:

- (a) Life imprisonment without possibility of parole in the murder of:
 - (i) A peace officer while in the performance of his duties, or
 - (ii) A person known by the defendant to be a witness in a murder prosecution, or
 - (iii) A person by a hired killer, in which event both the person hired and the person responsible for hiring the killer shall be punished under this subsection, or
 - (iv) A person while the defendant was imprisoned.

As part of such sentence the court shall order the director of the department of social services and housing and the Hawaii paroling authority to prepare an application for the governor to commute the sentence to life with parole at the end of twenty years of imprisonment.

(b) Life imprisonment with possibility of parole in all other cases. The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669.] Factors to be considered in imposing a sentence. The court, in determining the particular sentence to be imposed, shall consider:

- (1) The nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) The need for the sentence imposed:
 - (a) To reflect the seriousness of the offense, to promote respect for law, and to provide just punishment for the offense;
 - (b) To afford adequate deterrence to criminal conduct;
 - (c) To protect the public from further crimes of the defendant; and
 - (d) To provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (3) The kinds of sentences available; and
- (4) The need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.”

SECTION 16. Section 706-606.1, Hawaii Revised Statutes, is repealed.

SECTION 17. Section 706-606.5, Hawaii Revised Statutes, is amended to read as follows:

“§706-606.5 Sentencing of repeat offenders. (1) Notwithstanding section 706-669 and any other law to the contrary, any person convicted of any class A felony, any class B felony or any of the following class C felonies: section 707-703 relating to negligent homicide in the first degree; 707-711 relating to assault in the second degree; 707-713 relating to reckless endangering in the first degree; 707-716 relating to terroristic threatening in the first degree; 707-721 relating to unlawful imprisonment in the first degree; 707-732 relating to sexual assault in the third degree; 707-751 relating to promoting child abuse in the second degree; 707-766 relating to extortion in the second degree; 708-811 relating to burglary in the second degree; 708-821 relating to criminal property damage in the second degree; 708-831 relating to theft in the second degree; 708-852 relating to forgery in the second degree; 708-854 relating to criminal possession of a forgery device; 710-1031 relating to intimidation of a correctional worker; 710-1071 relating to intimidating a witness; 711-1103 relating to riot; 712-1203 relating to promoting prostitution in the second degree; 712-1221 relating to gambling in the first degree; 712-1224 relating to possession of gambling records in the first degree; 712-1243 relating to promoting a dangerous drug in the third degree; 712-1247 relating to promoting a detrimental drug in the first degree; 134-7 relating to ownership or possession of firearms or ammunition by persons convicted of certain crimes; 134-8 relating to ownership, etc., of prohibited weapons; 134-9 relating to permits to carry [under section 707-701 relating to murder, 707-710 relating to assault in the first degree; 707-720 relating to kidnapping, 707-724 relating to criminal coercion involving dangerous weapons, 707-730 relating to rape in the first degree, 707-733 relating to sodomy in the first degree, 707-768 relating to extortion involving dangerous weapons, 708-810 relating to burglary in the first degree, 708-840 relating to robbery in the first degree, 712-1241 relating to the promoting of a dangerous drug in the first degree, 712-1242 relating to the promoting of a dangerous drug in the second degree, or 712-1244 relating to the promoting of a harmful drug in the first degree, who has a prior conviction for any of the above enumerated offenses or of any one of those enumerated in subsection (2) in this or another jurisdiction, within the time of the maximum sentence of the prior conviction, shall be sentenced for each conviction after the first conviction to a mandatory minimum period of imprisonment without possibility of parole during such period as follows:

- (a) Second conviction-5 years;
- (b) Third conviction-10 years.

(2) Notwithstanding section 706-669 and any other law to the contrary, any person convicted under section 708-811 relating to burglary in the second degree; 708-831 relating to theft in the first degree; 134-7 relating to ownership or possession of firearms or ammunition by persons convicted of certain crimes; 134-8 relating to ownership, etc., of prohibited weapons; 134-9 relating to permits to carry; 707-702 relating to manslaughter; 707-703 relating to negligent homicide in the first degree; 707-711 relating to assault in the second degree; 707-713 relating to reckless endangering in the first degree; 707-716 relating to terroristic threatening in the first degree; 707-721 relating to unlawful imprisonment in the first degree; 707-731 relating to rape in the second degree; 707-732 relating to rape in the third degree; 707-734 relating to sodomy in the second degree; 707-735 relating to sodomy in the third degree; 707-736 relating to sexual abuse in first degree; 707-741 relating to incest; 707-750 relating to promoting child abuse in the first degree; 707-751 relating to promoting child abuse in the second degree; 707-765 relating to extortion in the first degree; 707-766 relating to extortion in the second degree; 708-820 relating to criminal property damage in the first degree; 708-841 relating to robbery in the second degree; 710-1020 relating to escape in the first degree; 710-1031 relating to intimidation of a correctional worker; 710-1071 relating to intimidating a witness; 710-1074 relating to intimidating a juror; or 712-1202 relating to promoting prostitution in the first degree], or who is convicted of attempting to commit any class A felony, any class B felony, or any of the class C felony offenses enumerated above and who has a prior conviction or prior convictions for [one or more offenses] a class A felony, a class B felony, or any of the class C felony offenses enumerated [in subsection (1) or this subsection in this or another jurisdiction, within the time of the maximum sentence of any prior conviction,] above, shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole during such period as follows:

- [(a) One prior conviction-3 years;
- (b) Two prior convictions-5 years.]
- (a) One prior felony conviction:
 - (i) Where the instant conviction is for a class A felony-six years, eight months;
 - (ii) Where the instant conviction is for a class B felony-three years, four months;
 - (iii) Where the instant conviction is for a class C felony offense enumerated above-one year, eight months;
- (b) Two prior felony convictions:
 - (i) Where the instant conviction is for a class A felony-thirteen years, four months;
 - (ii) Where the instant conviction is for a class B felony-six years, eight months;
 - (iii) Where the instant conviction is for a class C felony offense enumerated above-three years, four months;
- (c) Three or more prior felony convictions:
 - (i) Where the instant conviction is for a class A felony-twenty years;
 - (ii) Where the instant conviction is for a class B felony-ten years;
 - (iii) Where the instant conviction is for a class C felony offense enumerated above-five years.

(2) Except as in section (3), a person shall not be sentenced to a mandatory minimum period of imprisonment under this section unless the instant felony offense was committed during such period as follows:

- (a) Within twenty years after a prior felony conviction where the prior felony conviction was for a class A felony;
- (b) Within ten years after a prior felony conviction where the prior felony conviction was for a class B felony;
- (c) Within five years after a prior felony conviction where the prior felony conviction was for a class C felony offense enumerated above.

(3) If a person was sentenced for a prior felony conviction to a special term under section 706-667, then the person shall not be sentenced to a mandatory minimum period of imprisonment under this section unless the instant felony offense was committed during such period as follows:

- (a) Within eight years after a prior felony conviction where the prior felony conviction was for a class A felony;
- (b) Within five years after the prior felony conviction where the prior felony conviction was for a class B felony;
- (c) Within four years after the prior felony conviction where the prior felony conviction was for a class C felony offenses enumerated above.

[(3)] (4) The sentencing court may impose the above sentences consecutive to any [other] sentence [then or previously] imposed on the defendant [or] for a prior conviction, but such sentence shall be imposed concurrent to the sentence imposed for the instant conviction. The court may impose a lesser mandatory minimum [sentence] period of imprisonment without possibility of parole than that mandated by this section where the court finds that strong mitigating circumstances warrant such action. Strong mitigating circumstances shall include, but will not be limited to, the provisions of section 706-621. The court shall provide a written opinion [or] stating its reasons for imposing the lesser sentence.

For purposes of this section:

- (a) A prior felony conviction is a conviction for a felony offense which was committed after a previous felony conviction;
- (b) Convictions under two or more counts of an indictment or complaint shall be considered a single conviction without regard to when the convictions occur;
- (c) A prior conviction in this or another jurisdiction shall be deemed a felony conviction if it was punishable by a sentence of death or of imprisonment in excess of one year;
- (d) A conviction occurs on the date judgment is entered."

SECTION 18. Section 706-608, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) The court may [suspend the sentence of a corporation or an unincorporated association which has been convicted of an offense or may sentence it to pay a fine authorized by part III of this chapter.] sentence a corporation or an unincorporated association which has been convicted of an offense to be placed on probation as authorized by part II of this chapter or to be fined as authorized by part III of this chapter."

SECTION 19. Section 706-610, Hawaii Revised Statutes, is amended to read as follows:

“§706-610 Classes of felonies. (1) [Felonies] Apart from first and second degree murder and attempted first and second degree murder, felonies defined by this Code are classified, for the purpose of sentence, into three classes, as follows:

- (a) Class A felonies;
- (b) Class B felonies; and
- (c) Class C felonies.

A felony is a class A, class B, or class C felony when it is so designated by this Code. A crime declared to be a felony, without specification of class, is a class C felony.

(2) [Notwithstanding any other provision of law, a] A felony defined by any statute of this State other than this Code shall constitute for the purpose of sentence a class C felony[.], except if another provision of law specifically defines a felony to be of a specified class as defined by this Code, such felony shall be treated for the purpose of sentence as provided by this chapter for that class of felony.”

SECTION 20. Chapter 706, Hawaii Revised Statutes, is amended by amending the title of part II to read as follows:

“PART II. [SUSPENSION OF SENTENCE AND] PROBATION”

SECTION 21. Section 706-620, Hawaii Revised Statutes, is amended to read as follows:

“§706-620 [Sentence of imprisonment withheld unless imprisonment is necessary. The court shall deal with a person who has been convicted of a crime without imposing sentence of imprisonment unless, having regard to the nature and circumstances of the crime and the history, character and condition of the defendant, it is of the opinion that:

- (1) There is undue risk that during the period of a suspended sentence or probation the defendant will commit another crime; or
- (2) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to an institution; or
- (3) A lesser sentence will depreciate the seriousness of the defendant's crime.]

Authority to withhold sentence of imprisonment. A defendant who has been convicted of a crime may be sentenced to a term of probation unless:

- (1) The crime is first or second degree murder or attempted first or second degree murder;
- (2) The crime is a class A felony;
- (3) The defendant is a repeat offender under section 706-606.5; or
- (4) The defendant is a felony firearm offender as defined in section 706-660.1(b).”

SECTION 22. Section 706-621, Hawaii Revised Statutes, is amended to read as follows:

“§706-621 [Grounds favoring withholding sentence of imprisonment. The following grounds, while not controlling the discretion of the court, may be accorded weight in favor of withholding sentence of imprisonment:] Factors to be considered in imposing a term of probation. The court, in determining whether to impose a term of probation, shall consider:

- (1) The factors set forth in section 706-606 to the extent that they are applicable;

(2) The following factors to be accorded weight in favor of withholding a sentence of imprisonment:

- [(1)] (a) The defendant's criminal conduct neither caused nor threatened serious harm;
- [(2)] (b) The defendant acted under a strong provocation;
- [(3)] (c) There were substantial grounds tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense;
- [(4)] (d) The victim of the defendant's criminal conduct induced or facilitated its commission;
- [(5)] (e) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present crime;
- [(6)] (f) The defendant's criminal conduct was the result of circumstances unlikely to recur;
- [(7)] (g) The character and attitudes of the defendant indicate that he is unlikely to commit another crime;
- [(8)] (h) The defendant is particularly likely to respond affirmatively to a program of restitution or a probationary program or both;
- [(9)] (i) The imprisonment of the defendant would entail excessive hardship to himself or his dependents."

SECTION 23. Section 706-622, Hawaii Revised Statutes, is amended to read as follows:

"§706-622 [Criteria for placing defendant on] Requirement of probation[.]; exception. When a person who has been convicted of a [crime] felony is not sentenced to imprisonment, the court shall place him on probation [if he is in need of the supervision, guidance, assistance, or direction that the probation service can provide]. Nothing in this part shall prohibit the court from suspending any sentence imposed upon persons convicted of a crime other than a felony."

SECTION 24. Section 706-623, Hawaii Revised Statutes, is amended to read as follows:

"§706-623 [Period of suspension of sentence or] Terms of probation. When the court has [suspended sentence or has] sentenced a defendant to be placed on probation, the period of [the suspension or] probation shall be five years upon conviction of a felony, one year upon conviction of a misdemeanor, or six months upon conviction of a petty misdemeanor, unless the defendant is sooner discharged by order of the court. The court, on application of a probation officer or of the defendant, or on its own motion, may discharge the defendant at any time. Prior to granting early discharge, the court shall afford the prosecuting attorney an opportunity to be heard."

SECTION 25. Section 706-624, Hawaii Revised Statutes, is amended to read as follows:

"§706-624 Conditions of [suspension of sentence or] probation. [(1) When the court suspends the imposition of sentence on a person who has been convicted of a crime or sentences him to be placed on probation, it shall attach such reasonable conditions, authorized by this section, as it deems necessary to insure that he will lead a law-abiding life or likely to assist him to do so.
 (2) The court, as a condition of its order, may require the defendant:

- (a) To meet his family responsibilities;
- (b) To devote himself to an employment or occupation;
- (c) To undergo available medical or psychiatric treatment and to enter and remain in a specified institution, when required for that purpose;
- (d) To pursue a prescribed secular course of study or vocational training;
- (e) To attend or reside in a facility established for the instruction, recreation or residence of persons on probation;
- (f) To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;
- (g) To refrain from entering specified geographical areas without the court's permission;
- (h) To have in his possession no firearms or other dangerous instruments unless granted written permission by the court;
- (i) To make restitution of the fruits of his crimes or to make reparation, in an amount he can afford to pay, for the loss or damage caused thereby;
- (j) To remain within the jurisdiction of the court and to notify the court or the probation officer of any change in his address or his employment;
- (k) To report as directed to the court or the probation officer and to permit the officer to visit his home;
- (l) To post a bond, with or without surety, conditioned on the performance of any of the foregoing obligations;
- (m) To satisfy any other conditions reasonably related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom or conscience.

(3) When the court sentences a person who has been convicted of a misdemeanor to be placed on probation, it may require him to serve a term of imprisonment not exceeding six months as an additional condition of its order. When the court sentences a person who has been convicted of a felony to be placed on probation, it may require him to serve a term of imprisonment not exceeding one year as an additional condition of its order. The court may order that the term of imprisonment be served intermittently.

(4) The defendant shall be given a written copy of any requirements imposed pursuant to this section, stated with sufficient specificity to enable him to guide himself accordingly.] (1) Mandatory conditions. The court shall provide, as an explicit condition of a sentence of probation:

- (a) That the defendant not commit another federal or state crime during the term of probation;
- (b) That the defendant report to a probation officer as directed by the court or the probation officer;
- (c) That the defendant remain within the jurisdiction of the court, unless granted permission to leave by the court or a probation officer;
- (d) That the defendant notify a probation officer prior to any change in address or employment;
- (e) That the defendant notify a probation officer promptly if arrested or questioned by a law enforcement officer; and
- (f) That the defendant permit a probation officer to visit the defendant at the defendant's home or elsewhere as specified by the court.

(2) Discretionary conditions. The court may provide, as further conditions of a sentence of probation, to the extent that such conditions are reasonably related to the factors set forth in section 706-606 and to the extent that such conditions involve only such deprivations of liberty or property as are reasonably necessary for the purposes indicated in section 706-606(2), that the defendant:

- (a) Serve a term of imprisonment not exceeding one year in felony cases, and not exceeding six months in misdemeanor cases;
- (b) Perform a specified number of hours of services to the community as described in section 706-605(1)(e);
- (c) Support the defendant's dependents and meet other family responsibilities;
- (d) Pay a fine imposed pursuant to section 706-605(1)(b);
- (e) Make restitution as specified in section 706-605(1)(d);
- (f) Work conscientiously at suitable employment or pursue conscientiously a course of study or vocational training that will equip the defendant for suitable employment;
- (g) Refrain from engaging in a specified occupation, business, or profession bearing a reasonably direct relationship to the conduct constituting the crime, or engage in such a specified occupation, business, or profession only to a stated degree or under stated circumstances;
- (h) Refrain from frequenting specified kinds of places or from associating unnecessarily with specified persons, including but not limited to, the victim of the crime, any witnesses, regardless of whether they actually testified in the prosecution, law enforcement officers, co-defendants, or other individuals with whom contact may adversely affect the rehabilitation or reformation of the person convicted;
- (i) Refrain from use of alcohol or any use of narcotic drugs or controlled substances without a prescription;
- (j) Refrain from possessing a firearm, destructive device, or other dangerous weapon;
- (k) Undergo available medical, psychiatric, or psychological treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;
- (l) Reside in a specified place or area, or refrain from residing in a specified place or area;
- (m) Submit to periodic urinalysis or other similar testing procedure;
- (n) Satisfy such other reasonable conditions as the court may impose;
- (o) To refrain from entering specified geographical areas without the court's permission.

(3) Written statement of conditions. The defendant shall be given a written copy of any requirements imposed pursuant to this section, stated with sufficient specificity to enable the defendant to guide the defendant's self accordingly."

SECTION 26. Section 706-624.5, Hawaii Revised Statutes, is amended by amending its title and subsection (1) to read as follows:

"[]§706-624.5[] Notice of [suspended sentence or] probation. (1) Whenever the court [suspends the sentence of] places a defendant convicted of an offense against the person as described in chapter 707, or of an attempt to commit such an offense[, or places such defendant] on probation without requiring the serving of a term of imprisonment, the court shall provide written

notice to each victim of such offense of the [suspension of sentence or] probation, [as the case may be,] whenever the victim has made a written request for such notice. Notice shall be given to the victim at the address given on the request for notice or such other address as may be provided to the court by the victim from time to time.”

SECTION 27. Section 706-625, Hawaii Revised Statutes, is amended to read as follows:

“§706-625 Revocation [of suspension of sentence or probation], modification of probation conditions [or imposition or further requirements]. (a) [During a period of probation or suspension of sentence, the] The court, on application of a probation officer, the prosecuting attorney, the defendant, or on its own motion, after a hearing, may revoke [the suspension of sentence or] probation, [modify the requirements imposed on the defendant, or impose further requirements authorized by section 706-624.] reduce or enlarge the conditions of a sentence of probation, pursuant to the provisions applicable to the initial setting of the conditions and the provisions of section 706-627.

(b) The prosecuting attorney, the defendant’s probation officer, and the defendant shall be notified by the movant in writing of the time, place, and date of any such hearing, and of the grounds upon which action under this section is proposed. The prosecuting attorney, the defendant’s probation officer, and the defendant may appear in the hearing to oppose or support the application, and may submit evidence for the court’s consideration. The defendant shall have the right to be represented by counsel. For purposes of this section the court shall not be bound by the Hawaii Rules of Evidence, except for the rules pertaining to privileges.

(c) The court shall revoke [the suspension of sentence or] probation if the defendant has inexcusably failed to comply with a substantial requirement imposed as a condition of the order or has been convicted of a felony. The court may revoke the suspension of sentence or probation if the defendant has been convicted of another crime other than a felony.

(d) The court may modify the requirements imposed on the defendant or impose further requirements, if it finds that such action will assist the defendant in leading a law-abiding life.

(e) When the court revokes [a suspension of sentence or] probation, it may impose on the defendant any sentence that might have been imposed originally for the crime of which he was convicted.”

SECTION 28. Section 706-626, Hawaii Revised Statutes, is amended to read as follows:

“§706-626 Summons or arrest of defendant [under suspended sentence or] on probation; commitment without bail. At any time before the discharge of the defendant or the termination of the period of probation [or suspension of sentence]:

- (1) The court may, in connection with the [suspension or] probation, summon the defendant to appear before it or may issue a warrant for his arrest;
- (2) A probation or peace officer, having probable cause to believe that the defendant has failed to comply with a requirement imposed as a condition of the order, may arrest him without a warrant;
- (3) The court, if there is probable cause to believe that the defendant has committed another crime or if he has been held to answer

therefor, may commit him without bail, pending a determination of the charge by the court having jurisdiction thereof.”

SECTION 29. Section 706-627, Hawaii Revised Statutes, is amended to read as follows:

“§706-627 Tolling of [suspension of sentence or] probation. (1) Upon the filing of a motion to revoke a probation [or suspension of sentence] or a motion to [increase the requirements] enlarge the conditions imposed thereby, the period of probation [or suspension of sentence] shall be tolled pending the hearing upon the motion and the decision of the court. The period of tolling shall be computed from the filing date of the motion through and including the filing date of the written decision of the court concerning the motion for purposes of computation of the remaining period of probation [or suspension of sentence], if any. In the event the court fails to file a written decision upon the motion, the period shall be computed by reference to the date the court makes a decision upon the motion in open court. During the period of tolling of the probation [or suspension of sentence], the defendant shall remain subject to all terms and conditions of the probation [or suspension of sentence] except as otherwise provided by this chapter.

(2) In the event the court, following hearing, refuses to revoke the probation [or suspension of sentence] or grant the requested [increases in requirements] enlargement of conditions thereof because the defendant’s failure to comply therewith was excusable, the defendant may be granted the period of tolling of the probation [or suspension of sentence] for purposes of computation of the remaining probation [or suspension of sentence], if any.”

SECTION 30. Section 706-629, Hawaii Revised Statutes, is amended to read as follows:

“§706-629 Calculation of multiple dispositions involving [suspension or] probation and imprisonment, or multiple terms of [suspension or] probation. (1) When the disposition of a defendant involves more than one crime [or a defendant, already under sentence or suspension of sentence, is convicted for another crime committed prior to the former disposition]:

- (a) The court shall not [sentence to probation a defendant who is under sentence of imprisonment with more than six months to run, or] impose a sentence of probation and a sentence of imprisonment except as authorized by section [706-624(3);] 706-624(2)(a); and
- (b) Multiple periods of [suspension or] probation shall run concurrently from the date of the first such disposition; and
- (c) When a sentence of imprisonment is imposed for an indeterminate term, the service of such sentence shall satisfy a suspended sentence on another count or a prior suspended sentence or a prior sentence to probation; and
- (d) When a sentence of imprisonment is imposed for a definite term, the period of a suspended sentence on another count or a prior suspended sentence or prior sentence to probation shall run during the period of such imprisonment].

(2) When a defendant, already under sentence, is convicted for another crime committed prior to the former disposition:

- (a) The court shall not sentence to probation a defendant who is under sentence of imprisonment with more than six months to run;
- (b) Multiple periods of probation shall run concurrently from the date of the first such disposition; and

- (c) When a defendant, already under sentence of probation, is sentenced to imprisonment, the service of imprisonment shall not toll the prior sentence of probation.

[(2)] (3) When a defendant is convicted of a crime committed while [under suspension of sentence or] on probation and such [suspension or] probation is not revoked:

- (a) If the defendant is sentenced to imprisonment [for an indeterminate term], the service of such sentence shall [satisfy] not toll the prior [suspended sentence or] sentence [to] of probation; and
- [(b)] If the defendant is sentenced to imprisonment for a definite term, the period of the suspension or probation shall not run during the period of such imprisonment; and
- (c) (b) If [sentence is suspended or] the defendant is sentenced to probation, the period of such [suspension or] probation shall run concurrently with or consecutively to the remainder of the prior [periods,] period, as the court determines at the time of disposition."

SECTION 31. Section 706-630, Hawaii Revised Statutes, is amended to read as follows:

"§706-630 Discharge of defendant. Upon the termination of the period of probation [or suspension of sentence] or the earlier discharge of the defendant, the defendant shall be relieved of any obligations imposed by the order of the court and shall have satisfied the disposition of the court."

SECTION 32. Section 706-631, Hawaii Revised Statutes, is amended to read as follows:

"§706-631 Probation [or suspension of sentence] is a final judgment for other purposes. A judgment [suspending sentence or] sentencing a defendant to be placed on probation shall be deemed tentative, to the extent provided in this chapter, but for all other purposes shall constitute a final judgment."

SECTION 33. Section 706-640, Hawaii Revised Statutes, is amended to read as follows:

"§706-640 Authorized fines. A person who has been convicted of an offense may be sentenced to pay a fine not exceeding:

- (1) [\$10,000,] \$50,000, when the conviction is of a class A felony [or a class B felony];
- (2) [\$5,000,] \$25,000, when the conviction is of a class [C] B felony;
- (3) [\$1,000,] \$10,000, when the conviction is of a [misdemeanor,] class C felony;
- (4) [\$500,] \$2,000, when the conviction is of a [petty] misdemeanor [or a violation];
- (5) \$1,000, when the conviction is of a petty misdemeanor or a violation;
- [(5)] (6) Any higher amount equal to double the pecuniary gain derived from the offense by the defendant;
- [(6)] (7) Any higher or lower amount specifically authorized by statute."

SECTION 34. Section 706-641, Hawaii Revised Statutes, is amended as follows:

1. Subsection (1) is amended to read:

“(1) The court shall not sentence a defendant only to pay a fine, when any other disposition is authorized by law, [unless, having regard to the nature and circumstances of the crime and to the history and character of the defendant, it is of the opinion that the fine alone suffices for the protection of the public.] except in misdemeanor and petty misdemeanor cases.”

2. Subsection (3) is amended to read:

- “(3) The court shall not sentence a defendant to pay a fine unless:
- (a) The defendant is or will be able to pay the fine; and
 - (b) The fine will not prevent the defendant from making restitution [or reparation] to the victim of the offense.”

SECTION 35. Section 706-643, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) The defendant shall pay a fine or any installment thereof to the clerk of the sentencing court. In the event of default in payment, the clerk shall notify the prosecuting attorney[.] and, if the defendant is on probation, the probation officer.”

SECTION 36. Section 706-644, Hawaii Revised Statutes, is amended to read as follows:

“§706-644 Consequences of nonpayment; imprisonment for contumacious nonpayment; summary collection. (1) When a defendant sentenced to pay a fine or restitution defaults in the payment thereof or of any installment, the court, upon the motion of the prosecuting attorney or upon its own motion, may require him to show cause why his default should not be treated as contumacious and may issue a summons or a warrant of arrest for his appearance. Unless the defendant shows that his default was not attributable to an intentional refusal to obey the order of the court, or to a failure on his part to make a good faith effort to obtain the funds required for the payment, the court shall find that his default was contumacious and may order him committed until the fine, restitution, or a specified part thereof is paid.

(2) When a fine or restitution is imposed on a corporation or unincorporated association, it is the duty of the person or persons authorized to make disbursement from the assets of the corporation or association to pay it from those assets, and their failure so to do may be held contumacious unless they make the showing required in subsection (1).

(3) The term of imprisonment for nonpayment of fine or restitution shall be specified in the order of commitment, and shall not exceed one day for each [5] \$25 of the fine, thirty days if the fine was imposed upon conviction of a violation or a petty misdemeanor, or one year in any other case, whichever is the shorter period. A person committed for nonpayment of a fine or restitution shall be given credit toward payment for each day of imprisonment, at the rate of [5] \$25 per day.

(4) If it appears that the defendant's default in the payment of a fine or restitution is not contumacious, the court may make an order allowing the defendant additional time for payment, reducing the amount thereof or of each installment, or revoking the fine or restitution or the unpaid portion thereof in whole or in part.

(5) Upon any contumacious default in the payment of a fine or restitution or any installment thereof, execution may be levied and such other measures may be taken for the collection of the fine, restitution, or the unpaid balance thereof as are authorized for the collection of an unpaid civil judgment entered against the defendant in an action on a debt. The levy of execution for the

collection of a fine or restitution shall not discharge a defendant committed to imprisonment for nonpayment of the fine until the amount of the fine or restitution has actually been collected or accounted for under subsection (3)."

SECTION 37. Section 706-645, Hawaii Revised Statutes, is amended to read as follows:

"§706-645 Revocation of fine[,] or restitution. (1) A defendant who has been sentenced to pay a fine or restitution and who is not in contumacious default in the payment thereof may at any time petition the court which sentenced him for a revocation of the fine or restitution or of any unpaid portion thereof.

(2) If it appears to the satisfaction of the court that the circumstances which warranted the imposition of the fine or restitution have changed, or that it would otherwise be unjust to require payment, the court may revoke the fine or restitution or the unpaid portion thereof in whole or in part. Prior to revocation, the court shall afford the prosecuting attorney an opportunity to be heard."

SECTION 38. Section 706-660, Hawaii Revised Statutes, is amended to read as follows:

"§706-660 Sentence of imprisonment for class B and C felonies; ordinary terms. A person who has been convicted of a class B or class C felony may be sentenced to an indeterminate term of imprisonment except as provided for in section 706-660.1 relating to the use of firearms in certain felony offenses[,] and section 706-606.5 relating to repeat offenders. When ordering such a sentence, the court shall impose the maximum length of imprisonment which shall be as follows:

- (1) For a class B felony—10 years; and
- (2) For a class C felony—5 years.

The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669."

SECTION 39. Chapter 706, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§706- Terms of imprisonment for first and second degree murder and attempted first and second degree murder. (1) Persons convicted of first degree murder or first degree attempted murder shall be sentenced to life imprisonment without possibility of parole.

As part of such sentence the court shall order the director of the department of social services and housing and the Hawaii paroling authority to prepare an application for commutation of the sentence to life imprisonment with parole at the end of twenty years of imprisonment.

(2) Persons convicted of second degree murder and attempted second degree murder shall be sentenced to life imprisonment with possibility of parole. The minimum length of imprisonment shall be determined by the Hawaii paroling authority."

SECTION 40. Chapter¹ 706-662, Hawaii Revised Statutes, is amended to read as follows:

"§706-662 Criteria for [sentence of] extended [term] terms of imprisonment [for felony]. [The court may sentence a person who has been convicted of a felony to an extended term of imprisonment if it finds one or more of the grounds specified in this section. The finding of the court shall be incorporated in the record.] A convicted defendant may be subject to an extended term of

imprisonment under section 706-661, if the convicted defendant satisfies one or more of the following definitions:

- (1) Persistent offender. The defendant is a persistent offender whose [commitment] imprisonment for an extended term is necessary for protection of the public. The court shall not make such a finding unless the defendant has previously been convicted of two felonies committed at different times when he was eighteen years of age or older.
- (2) Professional criminal. The defendant is a professional criminal whose [commitment] imprisonment for an extended term is necessary for protection of the public. The court shall not make such a finding unless:
 - (a) The circumstances of the crime show that the defendant has knowingly devoted himself to criminal activity as a major source of livelihood; or
 - (b) The defendant has substantial income or resources not explained to be derived from a source other than criminal activity.
- (3) Dangerous person. The defendant is a dangerous person whose [commitment] imprisonment for an extended term is necessary for protection of the public. The court shall not make such a finding unless the defendant has been subjected to a psychiatric examination resulting in the conclusion that his criminal conduct has been characterized by compulsive, aggressive behavior with heedless indifference to consequences, and that such condition makes him a serious danger to others.
- (4) Multiple offender. The defendant is a multiple offender whose criminality was so extensive that a sentence of imprisonment for an extended term is [warranted.] necessary for protection of the public. The court shall not make such a finding unless:
 - (a) The defendant is being sentenced for two or more felonies or is already under sentence of imprisonment for felony; or
 - (b) The maximum terms of imprisonment authorized for each of the defendant's crimes, if made to run consecutively would equal or exceed in length the maximum of the extended term imposed, or would equal or exceed forty years if the extended term imposed is for a class A felony.
- (5) Offender against elderly, handicapped, or minor under the age of eight. The defendant is an offender against the elderly, handicapped, or minor under the age of eight whose [commitment] imprisonment for an extended term is necessary for the protection of the public. The court shall not make such a finding unless:
 - (a) The defendant attempts or commits any of the following crimes: murder, a sexual offense which constitutes a felony under [part V of] chapter 707, robbery, felonious assault, burglary, and kidnapping; and
 - (b) The defendant, in the course of committing or attempting to commit the crime, inflicts serious or substantial bodily injury upon a person who is:
 - (i) Sixty years of age or older;
 - (ii) Blind, a paraplegic, or a quadriplegic; or
 - (iii) Eight years of age or younger; and

- (c) Such disability is known or reasonably should be known to the defendant.”

SECTION 41. Section 706-663, Hawaii Revised Statutes, is amended to read as follows:

“§706-663 Sentence of imprisonment for misdemeanor and petty misdemeanor. [A person who has been convicted of a misdemeanor or a petty misdemeanor may be sentenced to imprisonment for a definite term which shall be fixed by the court and shall not exceed one year in the case of a misdemeanor or thirty days in the case of a petty misdemeanor.] After consideration of the factors set forth in sections 706-606 and 706-621, the court may sentence a person who has been convicted of a misdemeanor or a petty misdemeanor to imprisonment for a definite term to be fixed by the court and not to exceed one year in the case of a misdemeanor or thirty days in the case of a petty misdemeanor.”

SECTION 42. Section 706-664, Hawaii Revised Statutes, is amended to read as follows:

“§706-664 Procedure [on] for imposing [sentence] extended terms of imprisonment [for an extended term]. Hearings to determine the grounds for imposing extended terms of imprisonment may be initiated by the prosecutor or by the court on its own motion. The court shall not impose [a sentence of imprisonment for] an extended term unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to him of the ground proposed. Subject to the provisions of section 706-604, the defendant shall have the right to hear and controvert the evidence against him and to offer evidence upon the issue.”

SECTION 43. Section 706-665, Hawaii Revised Statutes, is amended to read as follows:

“§706-665 Former conviction in another jurisdiction. For purposes of [subsection (1) of section 706-662,] sections 706-606.5, 706-620, and 706-662(1), a conviction of the commission of a crime in another jurisdiction shall constitute a previous conviction. Such conviction shall be deemed to have been of a felony if sentence of death or of imprisonment in excess of one year was authorized under the law of such other jurisdiction. Such a conviction shall be graded, for purposes of section 706-620 by comparing the maximum imprisonment authorized under the law of such other jurisdiction with the maximum imprisonment authorized for the relevant grade of felony.”

SECTION 44. Section 706-667, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

“(3) Special term. A young adult defendant convicted of a felony may, in lieu of any other sentence of imprisonment authorized by this chapter, be sentenced to a special indeterminate term of imprisonment if the court is of the opinion that such special term is adequate for his correction and rehabilitation and will not jeopardize the protection of the public. When ordering a special indeterminate term of imprisonment, the court shall impose the maximum length of imprisonment which shall be eight years for a class A felony, five years for a class B felony, and four years for a class C felony. The minimum length of imprisonment shall be set by the Hawaii paroling authority in accordance with section 706-669. During this special indeterminate term, the young adult will be incarcerated separately from career criminals, when practicable.

This section shall not apply to the [offense] offenses of murder[.] or attempted murder."

SECTION 45. Chapter 706, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§706- Multiple sentence of imprisonment. (1) If multiple terms of imprisonment are imposed on a defendant at the same time, or if a term of imprisonment is imposed on a defendant who is already subject to an unexpired term of imprisonment, the terms may run concurrently or consecutively. Multiple terms of imprisonment imposed at the same time run concurrently unless the court orders or the statute mandates that the terms run consecutively. Multiple terms of imprisonment imposed at different times run consecutively unless the court orders that the terms run concurrently.

(2) The court, in determining whether the terms imposed are to be ordered to run concurrently or consecutively, shall consider the factors set forth in section 706-606."

SECTION 46. Section 706-668, Hawaii Revised Statutes, is repealed.

SECTION 47. Section 706-670, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Parole conditions. The authority, as a condition of parole, may impose reasonable conditions on the prisoner as provided under section [706-624(2).] 706-624."

SECTION 48. Section 707-700, Hawaii Revised Statutes, is amended to read as follows:

"§707-700 Definitions of terms in this chapter. In this chapter, unless a different meaning plainly is required:

[(1)] "Person" means a human being who has been born and is alive[.];

[(2)] "Bodily injury" means physical pain, illness, or any impairment of physical condition[.];

"Substantial bodily injury" means bodily injury which causes:

(1) A major avulsion, laceration, or penetration of the skin;

(2) A chemical, electrical, friction, or scalding burn of second degree severity;

(3) A bone fracture;

(4) A serious concussion; or

(5) A tearing, rupture, or corrosive damage to the esophagus, viscera, or other internal organs.

[(3)] "Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ[.];

[(4)] "Dangerous instrument" means any firearm, whether loaded or not, and whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury[.];

[(5)] "Restrain" means to restrict a person's movement in such a manner as to interfere substantially with his liberty:

[(a)] (1) By means of force, threat, or deception; or

[(b)] (2) If the person is under the age of eighteen or incompetent, without the consent of the relative, person, or institution having lawful custody of him[.];

[(6)] "Relative" means parent, ancestor, brother, sister, uncle, aunt, or legal guardian[;].

[(7)] "Sexual intercourse" means sexual intercourse in its ordinary meaning or any intrusion or penetration, however slight, of any part of a person's body, or of any object, into the genital opening of another person, but emission is not required;

[(8)] "Deviate sexual intercourse" means any act of sexual gratification[;

(a) Between persons not married to each other involving the sex organs of one and the mouth or anus of the other; or

(b) Between] between a person and an animal or a corpse, involving the sex organs of one and the mouth, anus, or sex organs of the other.

"Sexual penetration" means vaginal intercourse, anal intercourse, fellatio, cunnilingus, anilingus, deviate sexual intercourse, or any intrusion of any part of a person's body or of any object into the genital or anal opening of another person's body; it occurs upon any penetration, however slight, but emission is not required. For purposes of this chapter, each act of sexual penetration shall constitute a separate offense.

[(9)] "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor[, done with the intent of gratifying the sexual desire of either party].

[(10)] "Married" includes persons legally married, and a male and female living together as [man] husband and wife regardless of their legal status, but does not include spouses living apart [under a judicial decree;].

[(11)] "Forcible" "Strong compulsion" means the use of or attempt to use one or more of the following to overcome a person:

[(a)] (1) A threat, express or implied, that places a person in fear of bodily injury to the individual or another person, or in fear that the person or another person will be kidnapped;

[(b)] (2) A dangerous instrument; or

[(c)] (3) Physical force.

"Compulsion" means absence of consent, or a threat, express or implied, that places a person in fear of public humiliation, property damage, or financial loss.

[(12)] "Mentally defective" means a person suffering from a disease, disorder, or defect which renders him incapable of appraising the nature of his conduct[;].

[(13)] "Mentally incapacitated" means a person rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a substance administered to him without his consent[;].

[(14)] "Physically helpless" means a person who is unconscious or for any other reason physically unable to communicate unwillingness to an act."

SECTION 49. Section 707-701, Hawaii Revised Statutes, is amended to read as follows:

"§707-701 [Murder. (1) Except as provided in section 707-702, a person commits the offense of murder if he intentionally or knowingly causes the death of another person.

(2) Murder is a class A felony for which the defendant shall be sentenced to imprisonment as provided in section 706-606.] Murder in the first degree. (1) A person commits the offense of murder in the first degree if the person intentionally or knowingly causes the death of:

(a) More than one person in the same or separate incident;

- (b) A peace officer, judge, or prosecutor arising out of the performance of official duties;
- (c) A person known by the defendant to be a witness in a criminal prosecution;
- (d) A person by a hired killer, in which event both the person hired and the person responsible for hiring the killer shall be punished under this section; or
- (e) A person while the defendant was imprisoned.

(2) Murder in the first degree is a felony for which the defendant shall be sentenced to imprisonment as provided in section 706- .”

SECTION 50. Chapter 707, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§707- **Murder in the second degree.** (1) Except as provided in section 707-701, a person commits the offense of murder in the second degree if the person intentionally or knowingly causes the death of another person.

(2) Murder in the second degree is a felony for which the defendant shall be sentenced to imprisonment as provided in section 706- .”

SECTION 51. Section 707-710, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of assault in the first degree if he intentionally or knowingly causes serious bodily injury to another person.”

SECTION 52. Section 707-711, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

- “(1) A person commits the offense of assault in the second degree if:
- (a) [He] The person intentionally or knowingly causes substantial bodily injury to another [person with a dangerous instrument];
- (b) [He] The person recklessly causes serious bodily injury to another person [with a dangerous instrument; or];
- (c) [He] The person intentionally or knowingly causes bodily injury to a correctional worker, as defined in section 710-1031(2), who is engaged in the performance of duty or who is within a correctional facility[.]; or
- (d) The person intentionally or knowingly causes bodily injury with a dangerous instrument.”

SECTION 53. Section 707-720, Hawaii Revised Statutes, is amended to read as follows:

“§707-720 **Kidnapping.** (1) A person commits the offense of kidnapping if he intentionally or knowingly restrains another person with intent to:

- (a) Hold him for ransom or reward; [or]
- (b) Use him as a shield or hostage; [or]
- (c) Facilitate the commission of a felony or flight thereafter; [or]
- (d) Inflict bodily injury upon him or subject him to a sexual offense; [or]
- (e) Terrorize him or a third person; or
- (f) Interfere with the performance of any governmental or political function.

(2) Except as provided in subsection (3), kidnapping is a class A felony.

(3) In a prosecution for kidnapping, it is a defense which reduces the offense to a class B felony that the defendant voluntarily released the victim,

alive and not suffering from serious or substantial bodily injury, in a safe place prior to trial.”

SECTION 54. Section 707-721, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

- “(1) A person commits the offense of unlawful imprisonment in the first degree if he knowingly restrains another person:
- (a) Under circumstances which expose the person to the risk of serious bodily injury; or
 - (b) In a condition of involuntary servitude.”

SECTION 55. Section 707-726, Hawaii Revised Statutes, is amended to read as follows:

“§707-726 Custodial interference in the first degree. (1) A person commits the offense of custodial interference in the first degree if:

- (a) Being a relative of a person less than eighteen years old:
 - (i) [He knowingly takes or entices that person from any other person who has a right to custody pursuant to a court order, judgment, or decree; or
 - (ii) He] The person knowingly violates a court order issued pursuant to chapter 586[; and], or the person knowingly takes or entices the person from any other person who has a right to custody pursuant to a court order, judgment, or decree; and
 - [(b) He] (ii) The person removes [himself] the person's self and the person less than eighteen years old from the State[.]; or
 - (c)¹ The person takes or entices another person less than eleven years old from that other person's lawful custodian, knowing that the person had no right to do so.
- (2) Custodial interference in the first degree is a class C felony.”

SECTION 56. Sections 707-730 to 707-738, Hawaii Revised Statutes, are repealed.

SECTION 57. Chapter 707, Hawaii Revised Statutes, is amended by adding five new sections to read as follows:

“§707-730 Sexual assault in the first degree. (1) A person commits the offense of sexual assault in the first degree if:

- (a) The person knowingly subjects another person to an act of sexual penetration by strong compulsion;
 - (b) The person knowingly subjects to sexual penetration another person who is less than fourteen years old.
- (2) Sexual assault in the first degree is a class A felony.

§707-731 Sexual assault in the second degree. (1) A person commits the offense of sexual assault in the second degree if:

- (a) The person knowingly subjects another person to an act of sexual penetration by compulsion;
 - (b) The person knowingly subjects to sexual penetration another person who is mentally defective, mentally incapacitated, or physically helpless; or
 - (c) The person, while employed in a state correctional facility, knowingly subjects to sexual penetration an imprisoned person.
- (2) Sexual assault in the second degree is a class B felony.

§707-732 Sexual assault in the third degree. (1) A person commits the offense of sexual assault in the third degree if:

- (a) The person recklessly subjects another person to an act of sexual penetration by compulsion;
 - (b) The person knowingly subjects to sexual contact another person who is less than fourteen years old or causes such a person to have sexual contact with the person;
 - (c) The person knowingly subjects to sexual contact another person who is mentally defective, mentally incapacitated, or physically helpless, or causes such a person to have sexual contact with the actor; or
 - (d) The person, while employed in a state correctional facility, knowingly subjects to sexual contact an imprisoned person or causes such person to have sexual contact with the actor.
- (2) Sexual assault in the third degree is a class C felony.

§707-733 Sexual assault in the fourth degree. (1) A person commits the offense of sexual assault in the fourth degree if:

- (a) The person knowingly subjects another person to sexual contact by compulsion or causes another person to have sexual contact with the actor by compulsion; or
 - (b) The person exposes the person's genitals to another person to whom the actor is not married under circumstances in which the actor's conduct is likely to place the other person in fear of bodily injury.
- (2) Sexual assault in the fourth degree is a misdemeanor.

§707-734 Sexual assault in the fifth degree. (1) A person commits the offense of sexual assault in the fifth degree if, the person intentionally exposes the person's genitals to a person to whom the person is not married under circumstances in which the person's conduct is likely to cause affront or alarm.

- (2) Sexual assault in the fifth degree is a petty misdemeanor."

SECTION 58. Section 707-750, Hawaii Revised Statutes, is amended by amending the definition of "sexual conduct" in subsection (2) to read as follows:

"“Sexual conduct” means acts of masturbation, homosexuality, lesbianism, bestiality, sexual [intercourse] penetration, deviate sexual intercourse, or sadomasochistic abuse.”

SECTION 59. Section 707-751, Hawaii Revised Statutes, is amended by amending the definition of "sexual conduct" in subsection (2) to read as follows:

"“Sexual conduct” means acts of masturbation, homosexuality, lesbianism, bestiality, sexual [intercourse] penetration, deviate sexual intercourse, or sadomasochistic abuse.”

SECTION 60. Section 708-800, Hawaii Revised Statutes, is amended to read as follows:

“§708-800 Definitions of terms in this chapter. In this chapter, unless a different meaning plainly is required, the following definitions apply.

“Apartment building” means any structure containing one or more dwelling units which is not a hotel or a single-family residence.

[(1)] “Building” includes any structure, and the term also includes any vehicle, railway car, aircraft, or watercraft used for lodging of persons therein; each unit of a building consisting of two or more units separately secured or occupied is a separate building[;].

“Cardholder” means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

[(2)] “Control over the property” means the exercise of dominion over the property and includes, but is not limited to, taking, carrying away, or possessing the property, or selling, conveying, or transferring title to or an interest in the property[.].

“Credit card” means any instrument or device, whether known as a credit card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, on credit.

[(3)] “Dealer” means a person in the business of buying and selling goods[.].

[(4)] “Deception” occurs when a person knowingly:

[(a)] (1) Creates or confirms another’s impression which is false and which the defendant does not believe to be true; [or]

[(b)] (2) Fails to correct a false impression which he previously has created or confirmed; [or]

[(c)] (3) Prevents another from acquiring information pertinent to the disposition of the property involved; [or]

[(d)] (4) Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

[(e)] (5) Promises performance which he does not intend to perform or knows will not be performed, but a person’s intention not to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

The term “deception” does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. “Puffing” means an exaggerated commendation of wares or services in communications addressed to the public or to a class or group.

[(5)] “Deprive” means:

[(a)] (1) To withhold property or cause it to be withheld from a person permanently or for so extended a period or under such circumstance that a significant portion of its economic value, or of the use and benefit thereof, is lost to him; or

[(b)] (2) To dispose of the property so as to make it unlikely that the owner will recover it; or

[(c)] (3) To retain the property with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or

[(d)] (4) To sell, give, pledge, or otherwise transfer any interest in the property; or

[(e)] (5) To subject the property to the claim of a person other than the owner.

[(6)] “Dwelling” means a building which is used or usually used by a person for lodging.

[(7)] “Enter or remain unlawfully.” A person “enters or remains unlawfully” in or upon premises when he is not licensed, invited, or otherwise privileged to do so. A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he defies a lawful order not to enter or remain, personally

communicated to him by the owner of the premises or some other authorized person. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner.

[(8) [Deleted]]

"Expired credit card" means a credit card which is no longer valid because the term shown on the credit card has elapsed.

[(9)] "Financial institution" means a bank, trust company, insurance company, credit union, safety deposit company, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

[(10)] "Government" means the United States, or any state, county, municipality, or other political unit within territory belonging to the United States, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government, or any corporation or agency formed pursuant to interstate compact or international treaty. As used in this definition "state" includes any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"Hotel" means a structure in which all tenants are roomers or boarders.

[(11)] "Intent to defraud" means:

- (a) (1) An intent to use deception to injure another's interest which has value; or
- (b) (2) Knowledge by the defendant that he is facilitating an injury to another's interest which has value.

"Issuer" means the business organization or financial institution which issues a credit card or its agent.

"Master key" means a key which will operate two or more locks to different apartments, offices, hotel rooms, or motel rooms in a common physical location.

[(12)] "Obtain" means:

- (a) (1) When used in relation to property, to bring about a transfer of possession or other interest, whether to the obtainer or to another; and
- (b) (2) When used in relation to services, to secure the performance of services.

[(13)] "Owner" means a person, other than the defendant, who has possession of or any other interest in, the property involved, even though that possession or interest is unlawful; however, a secured party is not an owner in relation to a defendant who is a debtor with respect to property in which the secured party has only a security interest.

[(14)] "Premises" includes any building and any real property.

[(15)] "Property" means any money, personal property, real property, thing in action, evidence of debt or contract, or article of value of any kind. Commodities of a public utility nature such as gas, electricity, steam, and water constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits, or other equipment shall be deemed a rendition of a service rather than a sale or delivery of property.

[(16)] "Property of another" means property which any person, other than the defendant, has possession of or any other interest in, even though that possession or interest is unlawful; however, a security interest is not an interest in property, even if title is in the secured party pursuant to the security agreement.

[(17)] "Receiving" [Receives] or [receiving] includes but is not limited to acquiring possession, control, or title, and taking a security interest in the property.

"Revoked credit card" means a credit card which is no longer valid because permission to use the credit card has been suspended or terminated by the issuer.

[(18)] "Services" includes but is not limited to labor, professional services, transportation, telephone or other public services, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, and the supplying of equipment for use.

[(19)] "Stolen" means obtained by theft or robbery.

[(20)] "Unauthorized control over property" means control over property of another which is not authorized by the owner.

[(21)] "Widely dangerous means" includes explosion, fire, flood, avalanche, collapse of building, poison gas, radioactive material, or any other material, substance, force, or means capable of causing potential widespread injury or damage.

[(22)] "Hotel" means a structure in which all tenants are roomers or boarders.

(23) "Apartment building" means any structure containing one or more dwelling units which is not a hotel or a single-family residence.

(24) "Master key" means a key which will operate two or more locks to different apartments, offices, hotel rooms or motel rooms in a common physical location.]"

SECTION 61. Chapter 708, Hawaii Revised Statutes, is amended by adding a new part to be designated and to read as follows:

"PART . CREDIT CARD OFFENSES

§708- Fraudulent use of a credit card. (1) A person commits the offense of fraudulent use of a credit card, if with intent to defraud the issuer, or another person or organization providing money, goods, services, or anything else of value, or any other person, the person:

- (a) Uses or attempts or conspires to use, for the purpose of obtaining money, goods, services, or anything else of value a credit card obtained or retained in violation of section 708- or a credit card which the person knows is forged, expired, or revoked;
- (b) Obtains or attempts or conspires to obtain money, goods, services, or anything else of value by representing without the consent of the cardholder that the person is the holder of a specified card or by representing that the person is the holder of a card and such card has not in fact been issued; or
- (c) Uses or attempts or conspires to use a credit card number without the consent of the cardholder for the purpose of obtaining money, goods, services, or anything else of value.

(2) Fraudulent use of a credit card is a class C felony if the value of all money, goods, services, and other things of value obtained or attempted to be obtained exceeds \$500 in any six-month period.

(3) Fraudulent use of a credit card is a misdemeanor, if the value of all money, goods, services, and other things of value obtained or attempted to be obtained does not exceed \$500 in any six-month period.

(4) Knowledge of revocation of a credit card shall be presumed to have been received by a cardholder four days after it has been mailed to the cardholder at the address set forth on the credit card or at the last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal zone, and Canada, notice shall be presumed to have been received ten days after mailing by registered or certified mail.

§708- Making a false statement to procure issuance of a credit card.

(1) A person commits the offense of making a false statement to procure issuance of a credit card if the person makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with intent that it be relied on, respecting the person's identity or that of any other person, firm, or corporation, for the purpose of procuring the issuance of a credit card.

(2) Making a false statement to procure issuance of a credit card is a misdemeanor.

§708- Theft, forgery, etc., of credit cards. (1) A person who takes a credit card from the person, possession, custody, or control of another without the cardholder's consent or who, with knowledge that it has been so taken, receives the credit card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder commits the offense of credit card theft. If a person has in the person's possession or under the person's control credit cards issued in the names of two or more other persons, which have been taken or obtained in violation of this subsection, it is prima facie evidence that the person knew that the credit cards had been taken or obtained without the cardholder's consent.

(2) A person who receives a credit card that the person knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder commits the offense of credit card theft.

(3) A person, other than the issuer, who sells a credit card or a person who buys a credit card from a person other than the issuer commits the offense of credit card theft.

(4) A person who, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, obtains control over a credit card as security for a debt commits the offense of credit card theft.

(5) A person, other than the issuer, who during any twelve-month period, receives credit cards issued in the names of two or more persons which the person has reason to know were taken or retained under circumstances which constitute credit card theft or a violation of section 708- , commits the offense of credit card theft.

(6) A person who, with intent to defraud a purported issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, falsely makes or falsely embosses a purported credit card or utters such a credit card, or possesses such a credit card with knowledge that the same has been falsely made or falsely embossed commits the offense of credit card

forgery. If a person other than the purported issuer possesses two or more credit cards which have been made or embossed in violation of this subsection, it is prima facie evidence that the person intended to defraud or that the person knew the credit cards had been so made or embossed. A person falsely makes a credit card when the person makes or draws, in whole or in part, a device or instrument which purports to be the credit card of a named issuer but which is not such a credit card because the issuer did not authorize the making or drawing, or alters a credit card which was validly issued. A person falsely embosses a credit card who, without authorization of the named issuer, completes a credit card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card before it can be used by a cardholder.

(7) A person other than the cardholder or a person authorized by the cardholder who, with intent to defraud the issuer, or a person or organization providing money, goods, services, or anything else of value, or any other person, signs a credit card, commits the offense of credit card forgery.

(8) Credit card theft is a class C felony.

(9) Credit card forgery is a class C felony.

§708- Credit card fraud by a provider of goods or services. (1) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employees of such person, who, with intent to defraud the issuer or cardholder, furnishes money, goods, services, or anything else of value upon presentation of a credit card obtained or retained in violation of section 708- or a credit card which the person knows is forged, expired, or revoked commits the offense of credit card fraud by a provider of goods or services.

(2) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer or the cardholder, fails to furnish money, goods, services, or anything else of value which the person represents in writing to the issuer that the person has furnished commits the offense of credit card fraud by a provider of goods or services.

(3) Credit card fraud by a provider of goods or services is a class C felony.

§708- Possession of unauthorized credit card machinery or incomplete cards. (1) A person other than the cardholder possessing an incomplete credit card, with intent to complete it without the consent of the issuer or a person possessing, with knowledge of its character, machinery, plates, or any other contrivance designed to reproduce instruments purporting to be the credit cards of the issuer who has not consented to the preparation of such credit cards, commits the offense of possession of unauthorized credit card machinery or incomplete cards.

A credit card is incomplete if part of the matter other than the signature of the cardholder, which an issuer requires to appear on the credit card, before it can be used by a cardholder, has not yet been stamped, embossed, imprinted, or written on it.

If a person other than the cardholder or issuer possesses two or more incomplete credit cards, it is prima facie evidence that the person intended to complete them without the consent of the owner.

(2) Possession of unauthorized credit card machinery or incomplete cards is a class C felony.

§708- Credit card lists prohibited; penalty. (1) It is unlawful for any person, business, corporation, partnership, or other agency to make available, lend, donate, or sell any list or portion of a list of any credit cardholders and their addresses and account numbers to any third party without the express written permission of the issuer and the cardholders; except that a credit card issuer may make a list of its cardholders, including names, addresses, and account numbers, available, without the permission of the cardholders, to a third party pursuant to a contract, if the contract contains language requiring the third party to bind through contract each of its subcontractors by including language prohibiting the divulging of any part of the list for any purpose by the subcontractors except to fulfill and service orders pursuant to the contract between the credit card issuer and the authorized third party.

Notwithstanding any contrary provision of this section, a "consumer reporting agency", as that term is defined by the Fair Credit Reporting Act, Public Law No. 91-508, may provide lists of credit account names, addresses, and account numbers to third parties pursuant to that Act. Nothing in this section shall make unlawful or otherwise prohibit the transmittal of any such information to or from a "consumer reporting agency", as that term is defined in the Fair Credit Reporting Act, or a "debt collector", as that term is defined in the Fair Debt Collection Practices Act, Public Law No. 95-109. Notwithstanding the provisions of this section, it is lawful for any corporation to make available, lend, donate, or sell any list or portion of a list of any credit cardholders and their addresses and account numbers to a subsidiary or the parent corporation of such corporation or to another subsidiary of the common parent corporation.

(2) Violation of this section is a misdemeanor.

§708- Defenses not available. In any prosecution for violation of this part, the prosecution is not required to establish and it is no defense:

- (1) That a person other than the defendant who violated this part has not been convicted, apprehended, or identified; or
- (2) That some of the acts constituting the offense did not occur in this State or were not a crime or element of a crime where they did occur."

SECTION 62. Section 708-822, Hawaii Revised Statutes, is amended to read as follows:

"§708-822 Criminal property damage in the third degree. (1) A person commits the offense of criminal property damage in the third degree if:

- (a) He recklessly damages property of another, without his consent, by the use of widely dangerous means; or
 - (b) He intentionally damages [the] property of another, without his consent, in an amount exceeding [\$50.] \$100.
- (2) Criminal property damage in the third degree is a misdemeanor."

SECTION 63. Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§708- Theft in the first degree. (1) A person commits the offense of theft in the first degree if the person commits theft of property, the value of which exceeds \$20,000.

- (2) Theft in the first degree is a class B felony."

SECTION 64. Section 708-831, Hawaii Revised Statutes, is amended to read as follows:

“§708-831 Theft in the [first] second degree. (1) A person commits the offense of theft in the [first] second degree if [he] the person commits theft:

- (a) By obtaining property from the person of another; [or]
- (b) Of property or services the value of which exceeds [\$200; or] \$300;
- (c) Of a firearm; [or]
- (d) Of dynamite or other explosive; [or]
- (e) By having in his possession a live animal or the carcass or meat, of the bovine,² , swine, or sheep species, while in or upon premises which he entered knowingly or remained unlawfully in or upon, and which are fenced or enclosed in a manner designed to exclude intruders or by having in his possession said live animal, carcass or meat in any other location.

(2) Theft in the [first] second degree is a class C felony.”

SECTION 65. Section 708-832, Hawaii Revised Statutes, is amended to read as follows:

“§708-832 Theft in the [second] third degree. (1) A person commits the offense of theft in the [second] third degree if [he] the person commits theft:

- (a) Of property or services the value of which exceeds [\$50;] \$100; or
- (b) Of gasoline, diesel fuel or other related petroleum products used as propellants of any value not exceeding \$200.

(2) Theft in the [second] third degree is a misdemeanor.”

SECTION 66. Section 708-833, Hawaii Revised Statutes, is amended to read as follows:

“§708-833 Theft in the [third] fourth degree. (1) A person commits the offense of theft in the [third] fourth degree if [he] the person commits theft of property or services[,] of any value not in excess of \$100.

(2) Theft in the [third] fourth degree is a petty misdemeanor.”

SECTION 67. Section 708-833.5, Hawaii Revised Statutes, is amended to read as follows:

“§708-833.5 Shoplifting. A person convicted of committing the offense of shoplifting as defined in section 708-830 shall be sentenced as follows:

- [(a)] (1) In cases involving property [or properties] the value or aggregate value of which exceeds [\$200:] \$300; as a class C felony, provided that the minimum fine shall be [the lesser of \$5,000 or] four times the value or aggregate value involved;
- [(b)] (2) In cases involving property [or properties] the value or aggregate value of which exceeds [\$50:] \$100; as a misdemeanor, provided that the minimum fine shall be three times the value or aggregate value involved;
- [(c)] (3) In cases involving property [or properties] the value or aggregate value of which is [\$50] \$100 or less: as a petty misdemeanor, provided that the minimum fine shall be twice the value or aggregate value involved;
- [(d)] (4) If a person has previously been convicted of committing the offense of shoplifting as defined in section 708-830, the minimum fine shall be doubled that specified in paragraphs [(a), (b), and (c)] (1), (2), and (3), respectively, as set forth above; provided, in the event the convicted person defaults in payment of any fine, and the default was not contemptuous, the court may sentence the person to

[perform services for the] community services as authorized by section [706-605(1)(f)] 706-605(1)(e).”

SECTION 68. Section 708-840, Hawaii Revised Statutes, is amended to read as follows:

“§708-840 Robbery in the first degree. (1) A person commits the offense of robbery in the first degree if, in the course of committing theft:

- (a) He attempts to kill another, or intentionally inflicts or attempts to inflict serious bodily injury upon another; or
- (b) He is armed with a dangerous instrument and:
 - (i) He uses force against the person of anyone present with intent to overcome that person’s physical resistance or physical power of resistance; or
 - (ii) He threatens the imminent use of force against the person of anyone who is present with intent to compel acquiescence to the taking of or escaping with the property.

(2) As used in this section, “dangerous instrument” means any firearm, whether loaded or not, and whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or threatened to be used is capable of producing death or serious bodily injury.

(3) Robbery in the first degree is a class A felony.”

SECTION 69. Section 708-841, Hawaii Revised Statutes, is amended to read as follows:

“§708-841 Robbery in the second degree. (1) A person commits the offense of robbery in the second degree if, in the course of committing theft:

- (a) He uses force against the person of anyone present with the intent to overcome that person’s physical resistance or physical power of resistance; [or]
- (b) He threatens the imminent use of force against the person of anyone who is present with intent to compel acquiescence to the taking of or escaping with the property; or
- (c) He recklessly inflicts serious bodily injury upon another.

(2) Robbery in the second degree is a class B felony.”

SECTION 70. Chapter 709, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§709- Endangering the welfare of a minor in the first degree. (1) Except as in subsection (2), a person commits the offense of endangering the welfare of a minor in the first degree if, having care or custody of a minor, the person intentionally or knowingly allows another person to inflict serious or substantial bodily injury on the minor.

(2) It shall be a defense to prosecution under section 709- (1) and 709-704(1)¹ if, at the time the person allowed another to inflict serious or substantial bodily injury on a minor, the person reasonably believed the person would incur serious or substantial bodily injury in acting to prevent the infliction of serious or substantial bodily injury on the minor.

(3) Endangering the welfare of a minor in the first degree is a class C felony.”

SECTION 71. Section 709-904, Hawaii Revised Statutes, is amended to read as follows:

“§709-904 Endangering the welfare of a minor in the second degree. (1) Except as provided in section 709- (2), a person commits the offense of endangering the welfare of a minor in the second degree if, having care or custody of a minor, the person recklessly allows another person to inflict serious or substantial bodily injury on the minor.

[(1)] (2) A person commits the offense of endangering the welfare of a minor [under eighteen years of age] in the second degree if, being a parent, guardian, or other person whether or not charged with the care or custody of [such] a minor, [he] the person knowingly endangers the minor’s physical or mental welfare by violating or interfering with any legal duty of care or protection owed such minor.

[(2)] (3)¹ Endangering the welfare of a minor is a misdemeanor.”

SECTION 72. Chapter 710, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§710- Compensation by an adult of juveniles for crimes; grade or class of offense increased. (1) A person other than a juvenile commits the offense of compensation of a juvenile for a crime if the person intentionally or knowingly compensates, offers to compensate, or agrees to compensate any juvenile for the commission of any criminal offense.

(2) Any person convicted of compensating, offering to compensate, or agreeing to compensate a juvenile for the commission of a:

- (a) Petty misdemeanor shall be deemed guilty of a misdemeanor;**
- (b) Misdemeanor shall be deemed guilty of a class C felony;**
- (c) Class C felony shall be deemed guilty of a class B felony;**
- (d) Class B or class A felony shall be deemed guilty of a class A felony.**

(3) It is not a defense to a prosecution under subsection (1) that the accused had no knowledge of the juvenile’s age. The intent is to impose absolute liability with respect to the element of the other person’s being less than eighteen years old.

(4) For the purposes of this section, the following terms have the following meanings:

“Compensate” means to confer any benefit or pecuniary benefit.

“Juvenile” means any person under eighteen years of age.”

SECTION 73. Section 712-1200, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) As used in subsection (1), “sexual conduct” means “sexual [intercourse,] penetration,” “deviate sexual intercourse,” or “sexual contact,” as those terms are defined in section 707-700.”

SECTION 74. Section 712-1200, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

“(4) Notwithstanding any other law to the contrary, a person convicted of committing the offense of prostitution shall be sentenced as follows:

- (a) For the first offense, a fine of \$500 and the person may be sentenced to a term of imprisonment of not more than thirty days; provided, in the event the convicted person defaults in payment of the \$500 fine, and the default was not contumacious, the court may sentence the person to perform services for the community as authorized by section [706-605(1)(f).] 706-605(1).**

- (b) For any subsequent offense, a fine of \$500 and a term of imprisonment of thirty days, without possibility of suspension of sentence or probation."

SECTION 75. Section 712-1247, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of promoting a detrimental drug in the first degree if he knowingly:

- (a) Possesses four hundred or more capsules or tablets containing one or more of the Schedule V substances; [or]
- (b) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more containing one or more of the Schedule V substances; [or]
- (c) Distributes fifty or more capsules or tablets containing one or more of the Schedule V substances; [or]
- (d) Distributes one or more preparations, compounds, mixtures, or substances of an aggregate weight of one-eighth ounce or more, containing one or more of the Schedule V substances; [or]
- (e) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of two and two-tenths pounds or more, containing any marijuana; [or]
- (f) Distributes one or more preparations, compounds, mixtures, or substances of an aggregate weight of two ounces or more, containing any marijuana; or
- (g) Possesses, cultivates, or has under the person's control twenty-five or more marijuana plants; or
- [(g)] (h) Distributes any marijuana or any Schedule V substance in any amount to a minor."

SECTION 76. Chapter 712, Hawaii Revised Statutes, is amended by adding two¹ new sections to be appropriately designated and to read as follows:

"§712- Commercial promotion of marijuana. (1) A person commits the offense of commercial promotion of marijuana if the person knowingly:

- (a) Possesses marijuana having an aggregate weight of forty-four pounds or more;
 - (b) Distributes marijuana having an aggregate weight of two and two-tenths pounds or more;
 - (c) Possesses, cultivates, or has under the person's control one hundred or more marijuana plants;
 - (d) Cultivates on land owned by another person, including land owned by the government or other legal entity, twenty-five or more marijuana plants, unless the person has the express permission from the owner of the land to cultivate the marijuana or the person has a legal or an equitable ownership interest in the land or the person has a legal right to occupy the land; or
 - (e) Uses, or causes to be used, any firearm or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner used is capable of causing death or serious bodily injury, substantial bodily injury, or other bodily injury as defined in chapter 707 in order to prevent the theft, removal, search and seizure, or destruction of marijuana.
- (2) Commercial promotion in the second degree is a class B felony."

SECTION 77. Chapter 851, Hawaii Revised Statutes, is repealed.

SECTION 78. This Act does not affect rights and duties that matured, penalties that were incurred and proceedings that were begun, before its effective date.

SECTION 79. Statutory material to be repealed is bracketed. New statutory material is underscored.³

SECTION 80. This Act shall take effect on January 1, 1987.

(Approved June 6, 1986.)

Notes

1. So in original.
2. Prior to amendment "equine" appeared here.
3. Edited pursuant to HRS §23G-16.5.

ACT 315

H.B. NO. 526

A Bill for an Act Relating to Employee Stock Ownership.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER
EMPLOYEE STOCK OWNERSHIP PROGRAMS**

PART I. GENERAL PROVISIONS

§ -1 **Policy.** It is the policy of the State to actively promote and support expanded employee ownership in Hawaii businesses.

§ -2 **Definitions.** As used in this chapter, unless the context clearly indicates otherwise:

"Department" means the department of planning and economic development.

"Employee-ownership" means a form of business organization which is either:

- (1) A workers cooperative, within the meaning of subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons) of chapter 1 of the federal Internal Revenue Code of 1954, as amended; or
- (2) A corporation in which the employees own stock of the corporation through an employee stock ownership plan or other benefit plan which is qualified by section 401 (with respect to qualified pension profit-sharing, and stock bonus plans) of chapter 1 of the federal Internal Revenue Code of 1954, as amended.

"Employee stock ownership plan" means an employee benefit plan which is qualified by the Internal Revenue Service pursuant to section 401(a) of the federal Internal Revenue Code of 1954, as amended, and which is intended to invest primarily in employer securities, as defined by section 407(d)(1) of the Employee Retirement Income Security Act of 1974, as amended (P.L. 93-406).

PART II. STATE SUPPORT FOR EMPLOYEE OWNERSHIP

§ -11 **Employee ownership program.** The department shall establish a program to support and encourage expanded opportunities for employee ownership and participation in Hawaii businesses.

§ -12 **Regulatory review; annual report.** Each state agency involved in economic development and regulatory activities shall:

- (1) Conduct a one-time review of all existing rules, policies, and practices of the agency to determine which rules, policies, and practices tend to discourage or otherwise inhibit the implementation of employee ownership.
- (2) Report to the legislature the results of its findings in the study required by paragraph (1) twenty days prior to the convening of the regular session of 1987.
- (3) Annually report to the legislature on steps taken to encourage employee ownership and participation. If no action has been taken, explanation shall be made of the reasons therefor.

§ -13 **Powers and duties of department.** (a) The department shall assist owners and employees of Hawaii businesses in establishing employee ownership by providing technical assistance, information, or access to sources of financing.

(b) The department shall cooperate with state and federal agencies and commercial lenders in assisting Hawaii companies to obtain loans for the purpose of establishing employee ownership.

(c) The department shall:

- (1) Assist in coordinating the programs of all agencies in encouraging the development of employee stock ownership plans;
- (2) Arrange for studies where necessary, secure statistical data or other information, and arrange for the exchange of information between public agencies, private groups, and individuals;
- (3) Provide educational and technical assistance to businesses and individuals desiring to increase the level of employee participation and ownership in Hawaii businesses;
- (4) Establish a continuing educational and promotional outreach program to publicize the opportunities inherent in employee ownership and participation;
- (5) Review all reports filed by state agencies on efforts to encourage employee ownership and participation, and advise those agencies on ways to further improve those efforts; and
- (6) Appoint an employee ownership advisory committee to assist the department in all matters relating to employee ownership, including education, technical assistance, research, promotion and outreach efforts.

(d) The department may:

- (1) Employ, without regard to chapters 76 and 77, and at pleasure dismiss such persons as it finds necessary for the performance of its functions and fix their compensation;
- (2) Secure information from any executive agency of the State it deems necessary to carry out its functions; and
- (3) Administer funds allocated for its work and accept, disburse, and allocate funds which may become available from other governmental and private sources; provided that all the funds shall be disbursed or allocated in compliance with this chapter and any other applicable laws.

§ -14 **Rules.** The department may adopt rules pursuant to chapter 91 to implement this chapter."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$15,000, or so much thereof as may be necessary for fiscal year 1986-1987, for the purposes of this Act.

The sum appropriated shall be expended by the department of planning and economic development.

SECTION 3. This Act shall take effect on July 1, 1986 and shall be repealed as of June 30, 1988.

(Approved June 6, 1986.)

ACT 316

H.B. NO. 2221-86

A Bill for an Act Relating to Child Protective Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 587-1, Hawaii Revised Statutes, is amended to read as follows:

“[§587-1] **Purpose; construction.** This chapter creates within the jurisdiction of the family court a child protective act in order to safeguard, treat, and provide permanent planning for children who have been harmed or threatened with harm.

The legislature finds that children deserve and require competent [and], responsible parenting and safe [and], secure, loving, and nurturing homes. The legislature finds that children who have been harmed or threatened with harm are less likely than other children to realize their full educational, vocational, and emotional potential, and become law-abiding, productive, self-sufficient citizens, and are more likely to become involved with the mental health system, the juvenile justice system, or the criminal justice system, as well as become an economic burden on the State. The legislature finds that prompt identification, reporting, investigation, adjudication, treatment, and disposition of cases involving children who are harmed or threatened with harm are in both the children's and society's best interests because such children are defenseless, exploitable, and vulnerable.

The policy and purpose of this chapter is to provide children with prompt and ample protection from the harms detailed herein, with an opportunity for timely reconciliation with their families where practicable, and with timely and permanent planning so they may develop and mature into responsible, self-sufficient, law-abiding citizens. This permanent planning should effectuate placement with a child's own family when possible and should be conducted in [a] an expeditious fashion so that where return to the child's family is not possible as provided in this chapter, such children will be promptly and permanently placed with responsible, competent, substitute parents and families, and their place in such families secured by [termination of parental rights,] adoption[, guardianship, long-term foster] or permanent custody orders[, if no other option is available, by other order of the court, or arrangement as best provides for permanency].

This chapter shall be liberally construed to serve the best interests of the children and the purposes set out in this chapter.”

SECTION 2. Section 587-2, Hawaii Revised Statutes, is amended to read as follows:

“[§587-2] **Definitions.** When used in this chapter, unless the context otherwise requires:

“Adjudicatory hearing” means a [fact-finding] hearing held pursuant to [determine the truth of the allegations stated in a petition filed under this chapter.] section 587-62.

“Authorized agency” means the department or other public or private agency, a person, organization, corporation, and benevolent society or association which is licensed or approved by the department or the court to receive children for control, care, maintenance, or placement.

“Child” means a person less than eighteen years of age.

“Child protective [proceedings]” proceeding means any action, hearing, or other civil proceeding before the court under this chapter.

“Clear and convincing evidence” means that measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. This measure falls between the preponderance standard of typical civil cases and the beyond-a-reasonable-doubt standard of criminal cases.

“Court” means one of the family courts established pursuant to the family court act.

“Criminal history record check” means an examination of an individual’s criminal history record through fingerprint analysis or name inquiry into state and national criminal history record files, including, but not limited to, the files of the Hawaii criminal justice data center; provided that the information obtained shall be used exclusively for purposes under this chapter and shall be subject to applicable federal laws and regulations.

“Department” means the department of social services and housing and its authorized representatives.

“Disposition hearing” means a hearing held pursuant to [determine, in the best interests of the child, the orders of disposition, including an appropriate service plan.] section 587-71.

“Emergency foster care” means a residence designated as suitable by [the department] an authorized agency or the court for the temporary care of a child pending [final] orders of disposition.

“Family” means each legal[, parent, the natural mother, the natural father, the adjudicated, [or] presumed [parent, the natural mother, a], or concerned natural father as defined under section 578-2, each parent’s spouse, or former spouses, each sibling or person related by consanguinity or marriage, each person residing in the same dwelling unit, and any other person who or legal entity which is a child’s legal or physical custodian[, or guardian, or who is otherwise responsible for the child’s care, other than an authorized agency which assumes such a legal status or relationship with the child under this chapter.

“Family home” means the home of the child’s legal custodian where there is the provision of care for the child’s physical and psychological health and welfare.

“Family supervision” means the legal status created pursuant to this section, section 587-21[(a)](b)(2), or by an order of court after the court has determined that the child is presently in the legal or permanent custody of a family which is willing and able, with the assistance of a service plan, to provide the child with a safe family home. [to properly exercise the duties and rights of a legal custodian with the assistance of a service plan.] Family supervision vests in an authorized agency the following duties and rights, subject to such restriction as the court deems to be in the best interests of the child:

- (1) To monitor and supervise the child and the child's family members who are parties, including, but not limited to, reasonable access to each of the family members who are parties, and into the child's family home; and
- (2) To have authority to [determine whether, and if so, where and with whom the child may be placed in foster care; provided that the child shall not be placed in foster care outside the State without prior approval of the court. If] place the child [is placed] in emergency foster care or foster care[, the authorized agency shall] and thereby automatically assume temporary foster custody or foster custody of the child. Upon such placement, the authorized agency shall immediately notify the court. Upon such notification, the court shall set the case for a temporary foster custody hearing within three working days or, if jurisdiction has been established, a disposition or a review hearing within ten working days of the child's placement, unless the court deems a later date to be in the best interests of the child.

An authorized agency shall not be liable to third persons for acts of the child solely by reason of its possessing the status of temporary family supervision or family supervision in relation to the child.

"Foster care" means a residence designated as suitable by [the department] an authorized agency or the court for the appropriate care of a child upon [final] orders of disposition[.] or permanent custody.

"Foster custody" means the legal status created pursuant to this section, section 587-21[(a)][(b)(2)], or by an order of court after the court has determined that [the child is presently without family or that] the child's family is not presently willing and able to [properly exercise the duties and rights of a legal custodian.] provide the child with a safe family home.

- (1) Foster custody vests in a foster custodian the following duties and rights:
 - (A) To determine where and with whom the child shall be placed in emergency foster care or foster care; provided that the child shall not be placed in emergency foster care or foster care outside the State without prior approval of the court; [and] provided further that, subsequent to the temporary foster custody hearing, unless otherwise ordered by the court, the temporary foster custodian or the foster custodian may permit the child to resume residence with the family from which the child was removed after providing prior written notice to the court and to all parties, which notice shall state that there is no objection of any party to such a return; and upon the return of the child to the family, temporary foster custody, or foster custody automatically shall be revoked and the child and the child's family members who are parties shall be under the temporary family supervision or the family supervision of the former temporary foster custodian or foster custodian[.];
 - (B) To assure that the child is provided in a timely manner with adequate food, clothing, shelter, psychological care, physical care, medical care, supervision, and [incidental] other necessities[.];
 - (C) To monitor the provision to the child of appropriate [care,] education[, and discipline.];

- (D) To provide all consents which are required for the child's physical or psychological health or welfare, including, but not limited to, ordinary medical, dental, psychiatric, psychological, educational, employment, recreational, or social needs; and to provide all consents for any other medical care or treatment, including, but not limited to, surgery, if such care or treatment is deemed by two physicians licensed or authorized to practice in this State to be necessary for the child's physical or psychological health or welfare, and the persons who are otherwise authorized to provide such consent are unable or have refused to consent to such care or treatment[.];
- (E) [To provide the court with information concerning the child that the court may require at any time, and to file written reports to the court stating the then-current situation of a child under its foster custody at intervals not to exceed six months, unless otherwise ordered by the court.] To provide consent to the recording of a statement pursuant to section 587-43;
- (F)¹ To provide the court with information concerning the child that the court may require at any time.
- (2) The court, in its discretion, may vest foster custody of a child in any authorized agency in the child's best [interest:] interests; provided that such rights and duties which are so assumed by an authorized agency shall supersede the rights and duties of any legal or permanent custodian of the child, other than as is provided in paragraph (4).
- (3) An authorized agency shall not be liable to third persons for the acts of the child solely by reason of the agency's status as temporary foster custodian or foster custodian of the child.
- (4) Unless otherwise ordered by the court, a child's family member shall retain the following rights and responsibilities after a transfer of temporary foster custody or foster custody, to the extent that such family member possessed such rights and responsibilities prior to the transfer of temporary foster custody or foster custody, to wit: the right of reasonable supervised or unsupervised visitation at the discretion of the authorized agency; the right to consent to adoption, to marriage, or to major medical care or treatment, except as provided in paragraph (1)(D); and the continuing responsibility for support of the child, including, but not limited to, repayment for the cost of any and all care, treatment, or any other service supplied or provided by the temporary foster custodian, the foster custodian, or the court for the child's benefit.

"Guardian ad litem" means a person appointed by the court under section 587-34 whose role is to protect and promote the needs and interests of the child or ward.

"Guidelines for determining whether the child's family is willing and able to [exercise or to] provide the child with a safe family home" means [that] the [following criteria shall be fully considered:] guidelines set forth in section 587-25.

- (1) The magnitude of the harm suffered by the child;
- (2) The frequency of the harm suffered by the child;
- (3) Whether the child has been the victim of repeated harm after initial report and intervention by a social agency;

- (4) The age of the child;
- (5) The physical and mental vulnerability of the child;
- (6) Whether the child is fearful of living in the child's family home;
- (7) Whether the child is willing to return to the child's family home;
- (8) The results of psychiatric/psychological evaluations of the child and of the potential long-term caretakers;
- (9) Whether there is a history of abusive or assaultive conduct by the child's family or others who have access to the child's family home;
- (10) Whether there is a history of substance abuse by the child's family or others who have access to the child's family home;
- (11) Whether the nonperpetrators in the child's family home are willing and able to protect the child;
- (12) Whether the perpetrator of the harm to the child is identified;
- (13) Whether the perpetrator has admitted and acknowledged the perpetrator's responsibility for the harm;
- (14) Whether the perpetrator has apologized to the child for the harm;
- (15) The motive of the perpetrator;
- (16) Whether the perpetrator has been removed from the child's family home and will not return for any reason without the prior permission of the court;
- (17) The willingness and ability of the child's family to seek out, accept, and complete counseling services, to cooperate with and facilitate close supervision by an appropriate social agency;
- (18) The willingness and ability of the child's family to effect positive environmental and personal changes within a reasonable period of time;
- (19) Whether the child's family demonstrates adequate parenting skills, such as providing the child and other children under their care with:
 - (A) Minimally adequate health and nutritional care;
 - (B) Stimulation, care, nurturance, and appropriate discipline consistent with the child's physical and psychological development;
 - (C) Guidance and supervision consistent with the child's safety;
 - (D) Safe home environment; and
 - (E) Protection from repeated exposure to violence even though not directed at the child;
- (20) Whether the child's family has an understanding of the child's needs and capabilities;
- (21) Whether the child's family perceives the child as being "different";
- (22) The child's family's psychological attachment to the child;
- (23) Whether the child's family problems relating to the safety of their home are sufficiently resolved;
- (24) Whether the obstacles to getting assistance are minimal, such as, whether telephone, transportation, and carfare are available;
- (25) Whether a competent person knows the child's family well enough to have sufficient contact and knowledge to recognize both immediate and pending problems;
- (26) Whether the competent person in paragraph (25) can and will intervene and help, as well as, report when a problem is recognized;
- (27) Whether there is available a social support system consisting of an extended family and friends; and

- (28) Whether there are other professionals, agencies, or relatives, who have provided evidence that the child's family home is safe.

The court shall consider the likelihood that compliance with the guidelines will continue in the future and the likelihood that the court will receive timely notice of any change in such compliance.]

"Harm" to a child's physical or psychological health or welfare occurs in[:

- (1) Any] a case where there exists [the child exhibits] evidence of injury, including, but not limited to:

- (1) Any case where the child exhibits evidence of:

- (A) Substantial or multiple skin bruising or any other internal bleeding,
- (B) Any injury to skin causing substantial bleeding,
- (C) Malnutrition,
- (D) Failure to thrive,
- (E) Burn or burns,
- (F) Poisoning,
- (G) Fracture of any bone,
- (H) Subdural hematoma,
- (I) Soft tissue swelling,
- (J) Extreme pain,
- (K) Extreme mental distress,
- (L) Gross degradation, or
- (M) Death, and

such injury is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or circumstances indicate that such condition or death may not be the product of an accidental occurrence; or

- (2) Any case where the child has been the victim of sexual contact or conduct, including, but not limited to, rape, sodomy, molestation, [or genital] sexual fondling, incest, prostitution[,]; obscene or pornographic photographing, filming, or depiction[,]; or other similar forms of sexual exploitation; or
- (3) Any case where there exists injury to the psychological capacity of a child as is evidenced by an observable and substantial impairment in the child's ability to function; or
- (4) Any case where the child is not provided in a timely manner with adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision; or
- (5) Any case where the child is provided with dangerous, harmful, or detrimental drugs as defined by section 712-1240[,]; however, this paragraph shall not apply to a child's family who provide such drugs to the child pursuant to the direction or prescription of a practitioner, as defined in section 712-1240.

"Imminent harm" means that there exists reasonable cause to believe that harm to the [child's physical or psychological health or welfare] child will occur or reoccur within the next ninety days; provided that the finding of reasonable cause may be based in whole or in part upon hearsay evidence when direct testimony is unavailable or when it is demonstrably inconvenient to summon witnesses who will be able to testify to facts from personal knowledge.] with due consideration being given to the age of the child and to the guidelines

for determining whether the child's family is willing and able to provide the child with a safe family home, as set forth in section 587-25.

"Party" means an authorized agency, the child, the child's family member or members who are required to be summoned pursuant to section 587-32(a), any other member of the child's family, or any other person who is alleged in the petition filed under this chapter or who is subsequently determined at any child protective [proceedings] proceeding to be encouraging, causing, or contributing to the acts or conditions which bring the child within this chapter, and who has been duly served with a summons and a copy of the petition filed under this chapter[.]; provided that the court may limit a party's right to participate in any child protective proceeding if the court deems such limitation of such party's participation to be consistent with the best interests of the child and such party is not a family member who is required to be summoned pursuant to section 587-32(a), except as is provided in section 587-73(b)(4).

"Permanent custody" means the legal status created by order of the court after the court has considered the criteria set forth in section 587-73(a) or (e) and determined by clear and convincing evidence that it is in the best interests of the child to order an appropriate permanent plan concerning the child.

- (1) Permanent custody divests from each legal custodian and family member who has been summoned pursuant to section 587-32(a), and vests in a permanent custodian, each of the parental and custodial duties and rights of a legal custodian and family member, including, but not limited to, the following:
 - (A) To determine where and with whom the child shall live; provided that the child shall not be placed outside the State without prior approval of the court;
 - (B) To assure that the child is provided in a timely manner with adequate food, clothing, shelter, psychological care, physical care, medical care, supervision, and other necessities;
 - (C) To monitor the provision to the child of appropriate education;
 - (D) To provide all consents that are required for the child's physical or psychological health or welfare, including, but not limited to, medical, dental, psychiatric, psychological, educational, employment, recreational, or social needs; and to provide all consents for any other medical care or treatment, including, but not limited to, surgery;
 - (E) To provide consent to adoption or to marriage;
 - (F) To provide the court with information concerning the child that the court may require at any time, and to submit written reports to the court stating the then-current situation and other significant information concerning the child at intervals not to exceed one year, unless otherwise ordered by the court; and
 - (G) If the child resides without the home of the permanent custodian for a period of seven consecutive days, to submit a written report to the court stating the then-current situation of the child on or before the tenth consecutive day or the next working day after such date.
- (2) Unless otherwise ordered by the court, a child's family member shall retain, to the extent that such family member possessed such responsibility prior to the transfer of permanent custody, the continuing responsibility for support of the child, including, but not

- limited to, repayment for the cost of any and all care, treatment, or any other service supplied or provided by the permanent custodian, any subsequent permanent custodian, other authorized agency, or the court for the child's benefit;
- (3) A family member may be permitted visitation with the child at the discretion of the permanent custodian; provided that the exercise of such discretion may be reviewed by the court and the court may order that a family member be permitted such visitation as is in the best interests of the child;
 - (4) An order of permanent custody entered under this chapter shall not operate to terminate the mutual rights of inheritance of the child and the child's family members or any other benefit to which the child may be entitled, unless and until the child has been legally adopted;
 - (5) The court, in its discretion, may vest permanent custody of a child in an authorized agency or in subsequent authorized agencies as is deemed to be in the best interests of the child;
 - (6) If the department receives a report that the child has been harmed or is subject to threatened harm by the acts or omissions of the permanent custodian or custodians of the child, the department may automatically assume either family supervision over the child and the child's permanent custodian or foster custody of the child; provided that, in any event, the department shall immediately notify the court and the court shall set the case for a permanent plan review hearing within ten working days, unless the court deems a later date to be in the best interests of the child; and
 - (7) An authorized agency shall not be liable to third persons for the acts of the child solely by reason of the agency's status as permanent custodian of the child.

"Permanent plan" means a specific written plan prepared pursuant to section 587-27.

"Permanent plan hearing" means a hearing held pursuant to section 587-73.

"Permanent plan review hearing" means any hearing, subsequent to a court ordered permanent plan, held pursuant to section 587-73(b).

"Police officer" means a person employed by any county in this State to enforce the laws and ordinances for preserving the peace, safety, and good order of the community.

"Preponderance of evidence" means evidence which as a whole shows that the fact sought to be proved is more probable than not.

"Protective custody" means the legal status of a child whose physical custody is retained by a police officer under this chapter in order to protect such child from imminent harm.

"Reasonable cause to believe" means reasonably trustworthy evidence which would cause a reasonable person of average caution to believe.

"Review hearing" means any [subsequent] hearing held pursuant to [the disposition hearing wherein the court shall review existing orders of disposition and specifically determine the issue of the parties' compliance with the terms and conditions of the service plan by court order and enter such further orders of disposition as are deemed to be in the best interests of the child.] section 587-72.

"Service plan" means a specific written plan[,] prepared [by the department or other appropriate authorized agency and presented to such members of the child's family as the department or other appropriate authorized agency deems to be necessary to the success of the plan, including, but not

limited to, the member or members of the child's family who have legal custody of the child at the time that a petition is filed under this chapter. The service plan should set forth:

- (1) Whether placement of the child is required and the steps that will be necessary to facilitate the return of the child to the child's family, if the proposed placement of the child is in foster care;
- (2) The steps that will be necessary for the child to remain with the child's family;
- (3) The steps that will be necessary to terminate the department's or other appropriate authorized agency's intervention into the family and eliminate, if possible, the necessity for the filing of a petition with the court under this chapter;
- (4) The service plan should also include, but not necessarily be limited to:
 - (A) The specific services or treatment that the parties will be provided and what specific actions the parties must take or specific responsibilities that the parties must assume; the time frames during which such services will be provided and such actions must be completed and responsibilities must be assumed;
 - (B) The specific consequences that may be reasonably anticipated to result from the parties' compliance or noncompliance with the terms and conditions set forth in the service plan; and
 - (C) Such other terms and conditions as the department or other appropriate authorized agency deems to be appropriate under the circumstances.

After each term and condition of the service plan has been thoroughly explained to and is understood by each member of the child's family which the department or other appropriate authorized agency deems to be necessary to the success of the service plan, the service plan shall be agreed to and signed by each such family member. Thereafter, a copy of the service plan shall be provided to each family member who signed the service plan.

If a member of a child's family whom the department or other appropriate authorized agency deems to be necessary to the success of the service plan cannot or does not understand or agree to the terms and conditions set forth in the service plan, the department shall proceed pursuant to section 587-21(a).

"Service plan by court order" means:

- (1) A service plan prepared by the department or other appropriate authorized agency which is presented to the court and to each of the parties to a child protective proceeding and, after:
 - (A) Each term and condition of the service plan has been thoroughly explained to and is understood by each party or a party's guardian ad litem;
 - (B) It has been signed by each party including the child, if appropriate, and their respective counsel, if any, and guardian ad litem, if any; and
 - (C) Each term and condition of the service plan has been reviewed by the court; is, thereupon, ordered by the court to constitute the service plan for the child if the court deems such terms and conditions to be in the child's best interests; or
- (2) If a party or the court cannot or does not accept the terms and conditions set forth in the service plan, the court shall set a hearing

on the service plan and after such hearing as the court deems to be appropriate, such terms and conditions shall be ordered by the court to constitute a service plan by court order for the child as the court deems to be in the best interests of the child.

A copy of the service plan by court order shall be entered into evidence and made a part of the record of the case.] pursuant to section 587-26.

"Temporary family supervision" means a legal status created under this chapter pursuant to an order of the court whereby the department assumes the duties and rights of family supervision over a child and the child's family members who are parties prior to a dispositional determination.

"Temporary foster custody" means a legal status created under this chapter with or without order of the court whereby the department [may assume] assumes the duties and rights of a foster custodian over a child.

"Temporary foster custody hearing" means a hearing held pursuant to section 587-53.

"Threatened harm" means any reasonably foreseeable substantial risk of harm to a child with due consideration being given to the age of the child and to the guidelines for determining whether the child's family is willing and able to [exercise or to] provide the child with a safe family home, as [defined] set forth in [this] section[.] 587-25."

SECTION 3. Section 587-11, Hawaii Revised Statutes, is amended to read as follows:

"[]§587-11[] Jurisdiction. The court shall have exclusive original jurisdiction in a child protective [proceedings] proceeding concerning any child who was or is found within the [circuit] State at the time such facts and circumstances occurred, are discovered, or are reported to the department, which facts and circumstances constitute the basis for the finding that the child is a child whose physical or psychological health or welfare [is harmed, or] is subject to imminent harm [or], has been harmed, or is subject to threatened harm by the acts or omissions of the child's family."

SECTION 4. Section 587-12, Hawaii Revised Statutes, is amended to read as follows:

"[]§587-12[] Retention of jurisdiction. Except as otherwise provided in this chapter, jurisdiction invoked by the court under this chapter may be retained by it, for the purposes of this chapter, after the child becomes eighteen years of age until the full term for which any order entered expires or until the child becomes nineteen years of age."

SECTION 5. Section 587-13, Hawaii Revised Statutes, is amended to read as follows:

"[]§587-13[] Venue. [Child] A child protective [proceedings] proceeding under this chapter may be originated in the county in which the child is found or resides at the time of the filing of the petition, or in the county in which a member of the child's family having legal custody of the child resides or is domiciled at the time of the filing of the petition."

SECTION 6. Section 587-21, Hawaii Revised Statutes, is amended to read as follows:

[]§587-21[] Authorization for department to act. (a) Upon receiving a report that a child [has been harmed,] is subject to imminent harm, has been harmed or is subject to threatened harm, the department shall cause such

investigation to be made in accordance with this chapter as it deems to be appropriate. In conducting the investigation the department may enlist the cooperation of police officers or other appropriate law enforcement authorities for phases of the investigation for which they are better equipped[.] and the department may conduct a criminal history record check concerning an alleged perpetrator of imminent harm, harm, or threatened harm to a child.

(b) Upon satisfying itself as to the course of action which should be pursued to best accord with the purpose of this chapter, the department shall:

- (1) Resolve the matter in such informal fashion, as is appropriate under the circumstances; or
- (2) Seek to enter into a service plan, without filing a petition in court, with such members of the child's family and such other authorized agency as the department deems to be necessary to the success of the service plan, including, but not limited to, the member or members of the child's family who have legal custody of the child. The service plan may include an agreement with the child's family to voluntarily place the child in the foster custody of the department or other authorized agency, or to place the child and the necessary members of the child's family under the family supervision of the department or other authorized agency; provided that if a service plan is not successfully completed within one year, the department shall file a petition [shall be] or ensure that a petition is filed by another appropriate authorized agency in court under this chapter[.] and the case shall be otherwise reviewed as is required by federal law; or
- (3) Assume temporary foster custody of the child pursuant to section 587-24(a) and file a petition [in] with the court under this chapter within two working days, excluding Saturdays, Sundays, and holidays, of the department's assumption of temporary foster custody of the child; or
- (4) File a petition [with the] or ensure that a petition is filed by another appropriate authorized agency in court under this chapter."

SECTION 7. Section 587-22, Hawaii Revised Statutes, is amended to read as follows:

"[]§587-22[] Protective custody by police officer without court order. (a) A police officer shall assume protective custody of a child without a court order and without the consent of the child's family regardless of whether the child's family is absent, if in the discretion of such police officer, the child is in such circumstance or condition that the child's continuing in the custody or care of the child's family presents a situation of imminent harm to the child.

(b) A police officer who assumes protective custody of a child immediately shall complete transfer of protective custody to the department by presenting physical custody of the child to the department, unless the child is or presently will be admitted to a hospital or similar institution, in which case the police officer immediately shall complete transfer of protective custody to the department by so informing the department and receiving an acknowledgment from the hospital or similar institution that it has been informed that the child is under the temporary foster custody of the department.

(c) Upon the completion of the transfer of protective custody of a child by a police officer to the department, the department [immediately] shall automatically assume temporary foster custody of the child."

SECTION 8. Section 587-23, Hawaii Revised Statutes, is amended to read as follows:

“[[§587-23]] **Authorization for color photographs, x-rays, and radiological or other diagnostic examination.** (a) Any child health professional or paraprofessional, physician licensed or authorized to practice medicine in this State, registered nurse or licensed practical nurse, hospital or similar institution's personnel engaged in the admission, examination, care, or treatment of patients, medical examiner, coroner, social worker, or police officer, who has before the person a child whom the person reasonably believes has been harmed, shall make every good faith effort to take or cause to be taken color photographs of the areas of trauma visible on the child. If medically indicated, such person may take or cause to be taken x-rays of the child or cause a radiological or other diagnostic examination to be performed on the child.

(b) Color photographs, x-rays, [or] radiological, or other diagnostic examination reports which show evidence of imminent harm, [imminent] harm, or threatened harm to a child immediately shall be forwarded to the department.”

SECTION 9. Section 587-24, Hawaii Revised Statutes, is amended to read as follows:

“[[§587-24]] **Temporary foster custody without court order.** (a) When the department receives physical custody of a child from the police pursuant to section 587-22(b), the department [may] shall assume temporary foster custody of a child without an order of the court and without the consent of the child's family regardless of whether the child's family is absent, if in the discretion of the department the child is in such circumstance or condition that the child's continuing in the custody or care of the child's family presents a situation of imminent harm to the child; provided that the department shall proceed in such a reasonable manner as does not jeopardize the personal safety of department personnel or any other person].

(b) Upon assuming temporary foster custody of a child under this chapter, the department promptly shall make every reasonable effort to inform a [member of the child's family who has] legal [custody] custodian of the child of the actions taken concerning the child; provided that the department may withhold such information from the child's family concerning the child as, in its discretion, is deemed to be in the best interests of the child.

(c) Upon assuming temporary foster custody of a child under this chapter, the department shall place the child in emergency foster care, unless the child is admitted to a hospital or similar institution, while it conducts an appropriate investigation.

(d) Any physician licensed or authorized to practice medicine in this State presented with a child who is under the temporary foster custody of the department shall perform such an examination of the child, with or without the consent of the child's family, as is required in order to determine the nature and extent of any [harm.] imminent harm, harm, or threatened harm to the child.

(e) Within two working days, excluding Saturdays, Sundays, or holidays, from the date of its assumption of temporary foster custody, the department shall:

- (1) Relinquish its temporary foster custody and return the child to the child's [family] legal custodian or custodians and proceed pursuant to section [587-21(a)(1),] 587-21(b)(1), (2), or (4);
- (2) Continue its assumption of temporary foster custody of the child with the child being voluntarily placed in foster care by the child's

- [family] legal custodian or custodians and proceed pursuant to section [587-21(a)(2)] 587-21(b)(2) or (4); or
- (3) Continue its assumption of temporary foster custody of the child and proceed pursuant to section [587-21(a)(3).] 587-21(b)(3).”

SECTION 10. Chapter 587, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

“§587-25 Guidelines for determining whether the child’s family is willing and able to provide the child with a safe family home. (a) The following guidelines shall be fully considered when determining whether the child’s family is willing and able to provide the child with a safe family home:

- (1) The age and the physical and mental vulnerability of the child;
- (2) The date or dates upon which the child was placed out of the family home and the date or dates of any subsequent change in placement;
- (3) The magnitude of the harm suffered by the child;
- (4) The frequency of the harm suffered by the child;
- (5) Whether the child has been the victim of repeated harm after an initial report and intervention by a social agency;
- (6) Whether the child is fearful of living in or returning to the child’s family home;
- (7) The results of psychiatric/psychological/developmental evaluations of the child, the alleged perpetrator and other appropriate family members who are parties;
- (8) Whether there is a history of abusive or assaultive conduct by the child’s family or others who have access to the child’s family home;
- (9) Whether there is a history of substance abuse by the child’s family or others who have access to the child’s family home;
- (10) Whether the nonperpetrators who reside in the child’s family home are willing and able to protect the child;
- (11) Whether the perpetrator of the harm to the child is identified;
- (12) Whether the perpetrator has admitted and acknowledged the perpetrator’s responsibility for the harm;
- (13) Whether the perpetrator has apologized to the child for the harm;
- (14) The motive of the perpetrator;
- (15) Whether the perpetrator has been removed from the child’s family home and will not return for any reason without the prior permission of the court;
- (16) The willingness and ability of the child’s family to seek out, accept, and complete counseling services, and to cooperate with and facilitate close supervision by an appropriate social agency;
- (17) The willingness and ability of the child’s family to effect positive environmental and personal changes within a reasonable period of time;
- (18) Whether the child’s family demonstrates adequate parenting skills, such as providing the child and other children under their care with:
 - (A) Minimally adequate health and nutritional care;
 - (B) Stimulation, care, nurturance, and appropriate discipline consistent with the child’s physical and psychological development;
 - (C) Guidance and supervision consistent with the child’s safety;
 - (D) A safe physical home environment; and

(E) Protection from repeated exposure to violence even though not directed at the child;

- (19) Whether the child's family has an understanding of the child's needs and capabilities;
- (20) Whether the child's family perceives the child as being "different";
- (21) The child's family's psychological attachment to the child;
- (22) Whether the child's family problems relating to the safety of the family home are sufficiently resolved;
- (23) Whether the obstacles to getting assistance are minimal, such as whether telephone and transportation are available;
- (24) Whether a competent person knows the child's family well enough to have sufficient contact and knowledge to recognize both immediate and pending problems;
- (25) Whether the competent person in paragraph (24) can and will intervene and help, as well as report, when a problem is recognized;
- (26) Whether there is available a social support system consisting of an extended family and friends; and
- (27) Whether there are other professionals, agencies, or relatives who have provided evidence that the child's family home is safe.

(b) The court shall consider the likelihood that the current situation presented by the guidelines set forth in subsection (a) will continue in the reasonably foreseeable future and the likelihood that the court will receive timely notice of any change or changes in the family's willingness and ability to provide the child with a safe family home."

SECTION 11. Chapter 587, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"§587-26 Service plan. (a) A service plan is a specific written plan prepared by an authorized agency and presented to such members of the child's family as the appropriate authorized agency deems to be necessary to the success of the plan, including, but not limited to, the member or members of the child's family who have legal custody of the child at the time that the service plan is being formulated or revised under this chapter.

(b) The service plan should set forth:

- (1) The steps that will be necessary to facilitate the return of the child to a safe family home, if the proposed placement of the child is in foster care under foster custody;
- (2) The steps that will be necessary for the child to remain in a safe family home with the assistance of a service plan, if the proposed placement of the child is in a family home under family supervision; and
- (3) The steps that will be necessary to make the family home a safe family home and to terminate the appropriate authorized agency's intervention into the family and eliminate, if possible, the necessity for the filing of a petition with the court under this chapter.

(c) The service plan should also include, but not necessarily be limited to:

- (1) The specific services or treatment that the parties will be provided and the specific actions the parties must take or specific responsibilities that the parties must assume; the time frames during which such services will be provided and such actions must be completed and such responsibilities must be assumed;
- (2) The specific consequences that may be reasonably anticipated to result from the parties' success or failure in complying with,

performing, and completing, if possible, each and every term and condition of the service plan, including, but not limited to, the consequence that, unless the family is willing and able to provide the child with a safe family home within the reasonable period of time specified in the service plan, their respective parental and custodial duties and rights shall be subject to termination by award of permanent custody; and

- (3) Such other terms and conditions as the appropriate authorized agency deems to be necessary to the success of the service plan.

(d) After each term and condition of the service plan has been thoroughly explained to and is understood by each member of the child's family whom the appropriate authorized agency deems to be necessary to the success of the service plan, the service plan shall be agreed to and signed by each such family member. Thereafter, a copy of the service plan shall be provided to each family member who signed the service plan.

(e) If a member of a child's family whom the appropriate authorized agency deems to be necessary to the success of the service plan cannot or does not understand or agree to the terms and conditions set forth in the service plan, the authorized agency shall proceed pursuant to section 587-21(b)."

SECTION 12. Chapter 587, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"§587-27 **Permanent plan.** Permanent plan is a specific written plan, prepared by an appropriate authorized agency, which should set forth:

- (1) A position as to whether the court should order an adoption of the child and specify:
 - (A) A reasonable period of time during which the adoption may be finalized; provided that the identity of the proposed adoptive parent or parents shall be provided to the court in a separate report which shall be sealed and shall not be released to the parties unless the court deems such release to be in the best interests of the child; or
 - (B) The reason why adoption is not the plan;
- (2) A specific written plan including:
 - (A) The goal, as being: adoption, permanent custody with subsequent adoption, or permanent custody until majority;
 - (B) The objectives concerning the child, including, but not limited to, placement, education, health, therapy, counseling, birth family, culture, and adoption or preparation for majority; and
 - (C) The method or methods for achieving the goal and objectives set forth in subparagraphs (A) and (B);
- (3) All supporting exhibits and written consents or an explanation as to why such exhibits or consents are not available. Upon good cause shown, the court may waive submission of any supporting exhibit or written consent; and
- (4) Any other information or materials which are necessary to the expeditious facilitation of the permanent plan."

SECTION 13. Section 587-31, Hawaii Revised Statutes, is amended to read as follows:

"[[§587-31[]] **Petition.** (a) A petition invoking the jurisdiction of the court under this chapter shall be filed in the manner provided in this section:

- (1) Petitions shall be entitled "In the Interest of _____, [a child under the age of eighteen years] born on _____" and shall be verified and shall set forth with specificity:
 - (A) The facts which bring the child within this chapter;
 - (B) The name, birthdate, sex, and residence address of the child;
 - (C) The names and last known residence addresses of the member or members of the child's family required to be notified pursuant to section 587-32(a), and other persons who are to be made parties to the child protective proceedings at the time of the filing of the petition pursuant to section 587-32(a)[.]; and
 - (D) Whether the child is under the temporary foster custody of the department in emergency foster care, and, if so, the type and nature of the emergency foster care, the circumstances necessitating such care, and the date the child was placed in such temporary foster custody.
- [(E)] (2) When any of the facts required by this section cannot be determined, the petition so shall state. The petition may be based on information and belief but in such case the petition shall state the basis of such information and belief.

(b) Petitions shall state that unless the family is willing and able to provide the child with a safe family home, even with the assistance of a service plan, within a reasonable period of time, their respective parental and custodial duties and rights shall be subject to termination.

[(2)] (c) The court may provide rules concerning the titles, filing, investigation, and the form and content of petitions and other pleadings and proceedings in cases under this chapter, or any other matter arising in child protective proceedings."

SECTION 14. Section 587-32, Hawaii Revised Statutes, is amended to read as follows:

"[[]§587-32[]] **Summons.** (a) After a petition has been filed, the court shall issue a summons requiring a child's family member or members who have legal or physical custody of the child at the time of the filing of the petition to bring the child before the court at the temporary foster custody hearing or on the return date set forth in the summons. In addition, any legal[,] parent, the natural mother (unless the child has been the subject of an adoption), the adjudicated, [or] presumed [parent of the child, the natural mother of the child, the], or concerned natural father of the child as defined under section 578-2, (unless the child has been the subject of an adoption) and other persons who are to be parties to the child protective [proceedings] proceeding at the time of the filing of the petition also shall be summoned, in the manner provided in this section. [A summons may be issued requiring the appearance of any other person whose presence is required by the parties or any other person whose presence, in the discretion of the court, is necessary.]

(b) A certified copy of the petition shall be attached to each summons.

(c) The summons shall notify the parties of their right to retain and be represented by counsel.

(d) The summons shall state: "YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS CONCERNING THE CHILD OR CHILDREN WHO ARE THE SUBJECT OF THE ATTACHED PETITION MAY BE TERMINATED BY AWARD OF PERMANENT CUSTODY IF YOU FAIL TO APPEAR ON THE DATE SET FORTH IN THIS SUMMONS."

[(d)] (e) The court [preliminarily] shall review each petition under this chapter [at the time of the filing of the petition,] and if, in the discretion of the

court, the child is in such circumstance or condition that the child's continuing in the custody or care of the child's family presents a situation of imminent harm to the child, the court shall order that a police officer immediately take the child into protective custody and that the department immediately assume temporary foster custody[.] until further order of the court."

SECTION 15. Section 587-33, Hawaii Revised Statutes, is amended to read as follows:

"[[§587-33[]] **Service of summons[; necessary witnesses, guardian ad litem-counsel].** (a) Service of summons shall be made personally by delivery of [an attested] a certified copy thereof to the person or legal entity summoned; provided that if the court is satisfied that it is impracticable to serve personally the summons provided for in the preceding section, the court may order service by registered or certified mail addressed to the last known address, or by publication thereof, or both. Service shall be effected at least twenty-four hours prior to the time fixed in the summons for a temporary foster custody hearing or at least forty-eight hours prior to the time fixed in the summons for [a return date, an adjudicatory, a disposition, a service plan, or a review] any other hearing under this chapter, unless such party otherwise was ordered by the court to appear at such hearing. [When publication is used the summons shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county. The newspaper shall be designated by the court in the order for publication of the summons, and such publication shall have the same force and effect as though such person had been personally served with the summons. Service] Personal service of summons required under this chapter shall be made by the sheriff or other person appointed by the court, and a return must be made on the summons showing to whom, the date, and time service was made. [The court may summon the appearance of any person whose presence is deemed necessary as a witness.]

(b) [If any person summoned as provided in this section, without reasonable cause, shall fail to appear, the court may proceed in such person's absence or such person may be proceeded against for contempt of court pursuant to section 587-75.] Where the summons cannot be personally served, or where a person served fails to obey the summons, or in any case when it shall be made to appear to the court that the service will be ineffectual, or that the best interests of the child require that the child be brought forthwith into the custody of the court, the court may issue a warrant for such person or child, as well as[.] issuing an order pursuant to section [587-32(d).] 587-34d(c)².

[(c) The court shall appoint a guardian ad litem for the child to serve throughout the pendency of the child protective proceedings under this chapter. The court may appoint additional counsel for the child pursuant to subsection (e) or independent counsel for any other party if such party is an indigent, the child protective proceedings are complex, counsel is necessary to protect the party's interests adequately, and the interests are not represented adequately by another party who is represented by counsel.

(d) In any case, where the court has reason to believe that a party is not fully competent to comprehend the nature of the child protective proceedings, after such hearing as the court deems to be appropriate, the court may appoint a guardian ad litem to represent the interests of that party.]

(c) When publication is used, the summons shall be published once a week for four consecutive weeks in a newspaper of general circulation in the county. The newspaper shall be designated by the court in the order for publication of the summons, and such publication shall have the same force and

effect as though such person had been personally served with the summons; provided that the date of the last publication shall be set not less than twenty-one days prior to the return date stated therein.

[(e) A guardian ad litem appointed pursuant to subsection (c) shall report to the court in writing at six month intervals, or as is otherwise ordered by the court, regarding such guardian ad litem's activities on behalf of the child and recommendations concerning the manner in which the court should proceed in the best interests of the child; provided that such guardian ad litem shall also inform the court of the child's perceived interests if they differ from those being advocated by the child's guardian ad litem. If the child and the child's guardian ad litem are not in agreement, the court shall evaluate the necessity for appointing special counsel for the child to serve as the child's legal advocate concerning such issues and during such proceedings as the court deems to be in the best interests of the child.

(f) A guardian ad litem or counsel appointed pursuant to this section for the child or other party shall be paid for by the court unless the party for whom counsel is appointed has an independent estate sufficient to pay such costs. The court may order the appropriate parties to pay reimbursement to the court for the costs and fees of the guardian ad litem and other counsel appointed for the child.]”

SECTION 16. Chapter 587, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

§587-34 Guardian ad litem; counsel. (a) The court shall appoint a guardian ad litem for the child to serve throughout the pendency of the child protective proceedings under this chapter; provided that a guardian ad litem's appointment shall automatically terminate upon an award of permanent custody of the child by the court, unless otherwise ordered by the court. The court may appoint additional counsel for the child pursuant to subsection (c) or independent counsel for any other party if such party is an indigent, counsel is necessary to protect the party's interests adequately, and the interests are not represented adequately by another party who is represented by counsel.

(b) A guardian ad litem shall:

- (1) Be allowed access to the child by the caretakers of the child whether caretakers are individuals, authorized agencies, or health care providers;
- (2) Have the authority to inspect and receive copies of any records, notes, and electronic recordings concerning the child that are relevant to the proceedings filed under this chapter without the consent of the child or individuals and authorized agencies who have control of the child; and
- (3) Be given notice of all hearings and proceedings, civil or criminal, including, but not limited to, grand juries, involving the child and shall protect the best interests of the child therein, unless otherwise ordered by the court.

(c) A guardian ad litem appointed pursuant to subsection (a) shall report to the court and all parties in writing at six month intervals, or as is otherwise ordered by the court, regarding such guardian ad litem's activities on behalf of the child and recommendations concerning the manner in which the court should proceed in the best interests of the child; provided that such guardian ad litem shall make face to face contact with the child in the child's family or foster home at least once every three months. A guardian ad litem shall inform the court of the child's perceived interests if they differ from those being advocated

by the child's guardian ad litem. If the child and the child's guardian ad litem are not in agreement, the court shall evaluate the necessity for appointing special counsel for the child to serve as the child's legal advocate concerning such issues and during such proceedings as the court deems to be in the best interests of the child.

(d) Where the court determines, after such hearing as the court deems to be appropriate, that a party is incapable of comprehending the legal significance of the issues or the nature of the child protective proceedings, the court may appoint a guardian ad litem to represent the interests of that party; provided that a guardian ad litem appointed pursuant to this section shall investigate and report to the court in writing at six month intervals, or as is otherwise ordered by the court, regarding the current status of the ward's disability, including, but not limited to, a recommendation as to available treatment, if any, for such disability and a recommendation concerning the manner in which the court should proceed in order to best protect the interests of the ward in conjunction with the court's determination as to the best interests of the child.

(e) A guardian ad litem or counsel appointed pursuant to this section for the child or other party may be paid for by the court, unless the party for whom counsel is appointed has an independent estate sufficient to pay such costs. The court may order the appropriate parties to pay or reimburse the costs and fees of the guardian ad litem and other counsel appointed for the child."

SECTION 17. Chapter 587, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"§587-40 Reports to be submitted by department and authorized agencies; social worker expertise. (a) The department or other appropriate authorized agency shall make every reasonable effort to submit written reports, or a written explanation regarding why a report is not being submitted timely, to the court with copies to the parties or their counsel or guardian ad litem:

- (1) Within forty-eight hours, excluding Saturdays, Sundays, and holidays, subsequent to the hour of the filing of a petition for temporary foster custody pursuant to section 587-21(b)(3);
 - (2) Upon the date of the filing of a petition pursuant to section 587-21(b)(4); and
 - (3) At least fifteen days prior to the date set for each hearing, until jurisdiction is terminated or permanent custody is awarded, unless a different period of time is ordered by the court or the court orders that no report is required for a specific hearing; or
 - (4) Prior to or upon the date of a hearing if the report is supplemental to a report which was submitted pursuant to paragraph (1), (2), or (3).
- (b) Report or reports pursuant to subsection (a) specifically shall:
- (1) Evaluate fully all relevant prior and current information concerning each of the guidelines for determining whether the child's family is presently willing and able to provide the child with a safe family home, as set forth in section 587-25, including, if the family previously entered into a voluntary or court ordered service plan, the effect upon the guidelines of the parties' success or failure in complying with, performing, and completing, if possible, each and every term and condition of the service plan;
 - (2) In each proceeding, subsequent to adjudication, recommend as to whether the court should order:

- (A) A service plan as set forth in section 587-26 or revision or revisions to the existing service plan, and if so, set forth the proposed service or services or revision or revisions and the pertinent number or numbers of the guidelines considered in the report or reports, made pursuant to paragraph (1), which guideline or guidelines provide the basis for recommending such service or services or revision or revisions in a service plan or revised service plan; or
 - (B) An award of permanent custody to an appropriate authorized agency; and if so, set forth the basis for such recommendation which shall include, but not be limited to, an evaluation of each of the criteria set forth in section 587-73(a), including the written permanent plan as set forth in section 587-27; and
 - (3) Set forth recommendations as to such other orders as are deemed to be appropriate and state the basis for recommending that such orders be entered.
- (c) A written report submitted pursuant to subsection (a) shall be admissible and may be relied upon to the extent of its probative value in any proceeding under this chapter; provided that the person or persons who prepared the report may be subject to direct and cross-examination as to any matter in the report, unless such person is unavailable.
- (d) A person employed by the department as a social worker in the area of child protective services is qualified to testify as an expert in the area of social work and child protective services."

SECTION 18. Section 587-41, Hawaii Revised Statutes, is amended to read as follows:

"[] §587-41[] [Burden] **Evidentiary determination; burden of proof.**
(a) In a temporary foster custody hearing, a determination that there exists reasonable cause to believe that a child is subject to imminent harm may be based upon any relevant evidence whatsoever, including, but not limited to, hearsay evidence when direct testimony is unavailable or when it is impractical to subpoena witnesses who will be able to testify to facts from personal knowledge.

[(a)] (b) In an adjudicatory hearing, [any] a determination that the child has been harmed or is subject to threatened harm shall be based on a preponderance of the evidence; and, except as otherwise provided under this chapter, only competent[, material,] and relevant evidence may be admitted; provided that such competent, material, and relevant evidence which is contained in a written report, study, or examination, shall be admissible, and may be relied upon to the extent of its probative value; provided further that the maker of the written report, study, or examination may be subject to direct and cross-examination upon demand and when the maker reasonably is available].

[(b)] (c) In [a disposition, a service plan, a review, or any other hearing in a child protective proceeding,] subsequent hearings, other than [a temporary foster custody hearing,] a permanent plan hearing, any determination shall be based on a preponderance of the evidence; and any relevant evidence shall be admitted[, including such evidence as is contained in a written report, study, or examination and may be relied upon to the extent of its probative value; provided that the maker of the written report, study, or examination may be subject to direct and cross-examination upon demand and when the maker reasonably is available.

(c) Within a reasonable period of time prior to each hearing in a child protective proceeding, the department or other appropriate authorized agency shall submit a written report to the court with copies to all parties or their counsel or guardian ad litem setting forth the then-current situation of the child and the recommendations as to the orders or further orders as are deemed to be in the best interests of the child and the basis for each of such recommendations, including but not limited to, a consideration of the guidelines for determining whether the child's family is willing and able to exercise or provide the child with a safe home set forth in section 587-2, if the child's placement may be in issue at such hearing].

(d) In a permanent plan hearing:

- (1) A determination that permanent custody of a child be awarded to an appropriate authorized agency shall be based upon clear and convincing evidence; and
- (2) A determination that a child should be the subject of an adoption shall be based upon a preponderance of the evidence.

[(d) A social worker employed by the department in the area of child protective services shall be presumed to be qualified to testify as an expert in the area of child protective services.]”

SECTION 19. Section 587-42, Hawaii Revised Statutes, is amended to read as follows:

“[§587-42[] Evidence may be inadmissible in other state actions or proceedings [and]; testimony by a child. (a) Any testimony by or other evidence produced by a party in a child protective proceeding under this chapter, which would otherwise be unavailable, may be ordered by the court to be inadmissible as evidence in any other state civil or criminal action or proceeding, if the court deems such an order to be in the best interests of the child.

(b) The court may direct that a child testify under such circumstances as the court deems to be in the best interests of the child and the furtherance of justice, which may include, or be limited to, an interview on the record in chambers with only those parties present as the court deems to be in the best interests of the child.

(c) Any statement made by the child to any person relating to any allegation of [harm,] imminent harm, harm, or threatened harm shall be admissible in evidence.”

SECTION 20. Chapter 587, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

“**§587-43 Recording a statement or the testimony of a child.** (a) The recording of a statement of a child is admissible into evidence in any proceeding under this chapter if:

- (1) The recording is visual, or oral, or both and is recorded on film, tape, or videotape or by other electronic means;
- (2) The recording equipment was capable of making an accurate recording, the operator of the equipment was competent, and the recording is accurate and has not been altered; and
- (3) Every person on the recording is identified.”

SECTION 21. Chapter 587, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

“**§587-44 Admissibility of evidence.** The physician-patient privilege, psychologist-client privilege, and the spousal privilege shall not be available to

exclude evidence of imminent harm, harm, or threatened harm in any proceeding under this chapter.”

SECTION 22. Section 587-51, Hawaii Revised Statutes, is amended to read as follows:

“**[[§587-51]] Required findings concerning notice prior to a hearing in a child protective proceeding.** (a) No hearing may commence under this chapter unless the court enters a finding[:

- (1) That] that each of the parties [is present at the hearing and] required to be notified pursuant to section 587-32(a) has been served with a copy of the petition; [or
- (2) If the] provided that if a member or members of the child's family required to be notified pursuant to section 587-32(a) [are not present, that every reasonable effort has been made to effect service under this chapter and that it would be detrimental to the child to postpone the proceedings until service can be effectuated.] have not been served, the court may proceed to hear any child protective proceeding under this chapter and enter orders concerning the parties who have been served if the court is satisfied that:
 - (1) A reasonable effort has been made to effect personal service;
 - (2) It would not be in the best interests of the child to postpone the proceeding until service can be effectuated; and
 - (3) The child is represented by a guardian ad litem or counsel.

(b) If, at the return date hearing, it is established that a member or members of the child's family required to be notified pursuant to section 587-32(a) [are not present, the court may proceed to hear any child protective proceedings under this chapter only if the child is represented by a guardian ad litem or counsel. If the member or members of the child's family required to be notified pursuant to section 587-32(a) thereafter move the court that a resulting order of a temporary foster custody, an adjudication, a disposition, or a review hearing be vacated and ask for a rehearing, the court may grant the motion on an affidavit of such relationship or responsibility, unless the court finds that the party refused or failed to appear at the temporary foster custody, an adjudicatory, a disposition, or a review hearing without good cause, or that it would not otherwise be in the best interests of the child, in which case the court may deny the motion.] have not been served prior to the return date, the court shall:

- (1) Ascertain and order the method of service of summons which the court deems to be appropriate based upon the available information;
- (2) Set a continued return date; provided that:
 - (A) The court may waive the appearance of any party at the continued return date; and
 - (B) If the court orders that service of summons be made by mail or publication, the court shall set the continued return date not less than twenty-one days subsequent to the date of service evidenced by the signature on a return receipt or the date of the last publication.
- (c) Upon the continued return date, the court shall:
 - (1) Enter a default concerning a party who was served but failed to appear on the continued return date;
 - (2) Order the party who was served to appear on the date of the next scheduled hearing in the case; or

- (3) If a member of the child's family required to be notified pursuant to section 587-32(a) was served and appears on the continued return date and moves the court that a prior order be vacated or modified, set the oral motion to vacate prior orders for a hearing and order that the moving party proceed to file a written motion and to serve the other parties with proper written notice of the motion and hearing date.

(d) In considering a party's motion to vacate or modify prior orders, the court need not commence a trial or hearing de novo, but rather, after such further hearing as the court deems to be appropriate, may proceed to enter such orders as are in the best interests of the child."

SECTION 23. Section 587-52, Hawaii Revised Statutes, is amended to read as follows:

"[]§587-52[] Order of protection. (a) After a petition has been filed with the court under this chapter, the court, upon such hearing as the court deems to be appropriate, may make an order of protection [in assistance or as a condition of any other order made under this part. The order of protection may set forth reasonable conditions to be complied with for a specified time by any party other than an authorized agency]. Such an order may [require the] include, but need not be limited to, a requirement that a party:

- (1) [To stay] Stay away from the [child's] family home, a school, or any [party or person; or] other place or location which is deemed by the court to present an opportunity for contact between the parties themselves, or with other persons, which contact would not be in the best interests of the child;
- (2) [To abstain] Abstain from [offensive conduct against] physically or verbally contacting, threatening, or abusing any party or person[.]; and
- (3) Report any violation of an order of protection to the appropriate law enforcement authorities and other authorized agencies.

(b) [A petition filed with the court under this chapter also may serve as a petition for an order for protection as provided by section 586-3.] The parties may release copies of an order of protection to appropriate law enforcement authorities."

SECTION 24. Section 587-53, Hawaii Revised Statutes, is amended to read as follows:

"[]§587-53[] Temporary foster custody hearing. (a) In any case where the department has assumed temporary foster custody of a child with or without an order of the court, the court shall hold a temporary foster custody hearing[,] within two working days, excluding Saturdays, Sundays, and holidays, after the filing of a petition to determine whether the best interests of the child require further protection [pending an adjudicatory hearing.] prior to an adjudicatory determination.

(b) After reviewing a petition and the report or reports submitted pursuant to section 587-40, the court, on its own motion [and without a temporary foster custody hearing], may order that the child immediately be released from temporary foster custody and returned to the child's family home under such terms and conditions, including, but not limited to, orders which may be entered pursuant to subsection (d), as are deemed by the court to be in the best interests of the child[.]; provided that upon such return the child and

the child's family members who are parties shall be under the temporary family supervision of the department prior to the temporary foster custody hearing.

(c) The temporary foster custody hearing shall be continued for a period not to exceed fifteen days, upon the court's own motion or upon the motion of a party, if the court determines that it [requires] would be in the best interests of the child that further investigation[,] be conducted and information[, a physical examination, or a psychiatric or a psychological evaluation of a party] concerning whether the child should remain in temporary foster custody be provided to the court by each of the parties, prior to rendering a determination as to whether the child should remain in temporary foster custody [pending an adjudicatory hearing.] prior to an adjudicatory determination.

(d) [At the temporary foster custody hearing, any relevant evidence, whatsoever, shall be admitted, including such evidence as is contained in a written report, study, or examination and may be relied upon to the extent of its probative value; provided that the maker of the written report, study, or examination may be subject to direct and cross-examination upon demand and when the maker reasonably is available.] During a continuance period ordered pursuant to subsection (c) or at any other time during the pendency of a child protective proceeding, the court may further order that:

- (1) Any party undergo a physical, developmental, psychological, or psychiatric evaluation and that a written or oral report be submitted to the court and all parties prior to or upon the date of the continued or next hearing;
- (2) The child's family members who are parties provide the department or other appropriate authorized agency with the names and addresses of other family and friends who may be potential visitation supervisors or foster parents for the child and that they arrange for such persons to appear in court upon the date of the continued or next hearing;
- (3) The child's family members who are parties be permitted reasonable supervised or unsupervised visitation with the child at the discretion of the department or other appropriate authorized agency and the child's guardian ad litem;
- (4) The parties, subject to their agreement unless jurisdiction has been established, meet with appropriate expert witnesses to discuss the alleged harm to the child;
- (5) The court and the parties view a visual recording or listen to an oral recording of the child's statement at such time and in such manner as the court deems to be appropriate;
- (6) The child and the child's family members who are parties, subject to their agreement unless jurisdiction has been established, arrange and commence participation in such counseling or therapy for themselves and the child as the court deems to be appropriate and consistent with the best interests of the child;
- (7) An appropriate order of protection be entered;
- (8) A criminal history record check be conducted by the department or other appropriate authorized agency concerning a party who is an alleged perpetrator of imminent harm, harm, or threatened harm to the child, and that the results be submitted to the court and other parties in such manner as the court deems to be appropriate prior to or upon the date of the continued or next hearing;
- (9) The department or other appropriate authorized agency prepare a written or oral supplemental report pursuant to section 587-40 and

- submit the report to the court, the guardian ad litem, and all parties prior to or upon the date of the continued or next hearing; or
- (10) The child's guardian ad litem visit the child's family home and foster home, be present during a supervised visitation, and prepare a written or oral report to be submitted to the court and all parties prior to or upon the date of the continued or next hearing.

(e) The court shall consider all relevant prior and current information pertaining to the guidelines for determining whether the child's family is willing and able to [exercise or to] provide the child with a safe family home, as set forth in section [587-2] 587-25 and the report or reports submitted pursuant to section 587-40, prior to rendering a determination in the temporary foster custody hearing.

(f) After a temporary foster custody hearing, if the court determines that there is reasonable cause to believe that continued placement in emergency foster care is necessary to protect the child from imminent harm, it shall order that the child continue in the temporary foster custody of the department[,] under such terms and conditions, including, but not limited to, orders which may be entered pursuant to subsection (d), as are deemed by the court to be in the best interests of the child; provided that prior to ordering placement or continued placement in any proceeding under this chapter:

- (1) The court first shall give due consideration to ordering the removal or continued removal of the alleged potential perpetrator of the imminent harm, harm, or threatened harm from the child's family home prior to continuing or placing the child out of the family home. The child's family shall have the burden of establishing that it is not in the best interests of the child that the alleged perpetrator be removed from the family's home rather than the child by order of the court.
- (2) If siblings or psychologically bonded children are removed from their family home, the court shall order that every reasonable effort be made to place them together, unless it is not in the best interests of the children.

(g) After a temporary foster custody hearing, if the court determines that continued placement in emergency foster care is not necessary to protect the child from imminent harm, it may order that the child immediately be released from temporary foster custody and returned to the child's family home with the assistance of an interim service plan and under such other terms and conditions, including but not limited to, orders which may be entered pursuant to subsection (d), as are deemed by the court to be in the best interests of the child pending an adjudicatory or dispositional hearing[.]; provided that upon such return the child and the child's family members who are parties shall be under the temporary family supervision of the department prior to an adjudicatory or dispositional determination.

(h) Any party may move for, or the court on its own motion may order, a temporary foster custody hearing or rehearing at any time after the petition is filed under this chapter in order to determine whether the best interests of the child require that the child be placed in temporary foster custody [pending an adjudicatory hearing or a final order of disposition.] prior to an adjudicatory or dispositional determination."

SECTION 25. Section 587-61, Hawaii Revised Statutes, is repealed.

SECTION 26. Section 587-62, Hawaii Revised Statutes, is amended to read as follows:

"[[§587-62[] Adjudicatory] Return date; adjudicatory hearing. (a) When a petition has been filed, the court shall set a return date to be held within fifteen days of (1) the filing of the petition or (2) the date [of the issuance of] a [verbal] decision is orally stated by the court on the record in a temporary foster custody hearing.

(b) On the return date, the [parties may stipulate to the entry of such orders as the court deems to be in the best interests of the child or the court may set the case for an adjudicatory hearing as soon as is practicable; provided that if the child is to remain in emergency foster care subsequent to the return date, the court shall set the case for an adjudicatory hearing within ten days of the return date unless the court deems a later date for an adjudicatory hearing to be in the best interests of the child, or such later date is agreed to by all parties and the child's guardian ad litem and is approved by the court.] court shall preside over a pretrial conference and may order that:

- (1) During the period of time from the return date to the date of the adjudicatory hearing, the parties participate in and cooperate with appropriate services, actions, and recommendations pursuant to section 587-53(d);
- (2) Such further investigation and information as the court deems to be relevant to the issues to be determined at the adjudicatory hearing be conducted and be available for the court's consideration at the adjudicatory hearing; and
- (3) If the parties stipulate to orders of jurisdiction and foster custody or family supervision, the case be set for a further disposition hearing concerning an appropriate service plan, unless an appropriate written service plan is available and included as part of the stipulated orders; or
- (4) If the parties do not stipulate to orders of jurisdiction and foster custody or family supervision, the case be set for an adjudicatory hearing or, if jurisdiction is stipulated to, a disposition hearing as soon as is practicable; provided that if the child is to remain in emergency foster care subsequent to the return date, the court shall set the case for an adjudicatory hearing or a disposition hearing within ten working days of the return date, unless the court deems a later date for such hearing to be in the best interests of the child or such later date is agreed to by all parties and is approved by the court.

(c) The court shall hear child protective proceedings under this chapter at a hearing separate from those for adults and without a jury. The hearing shall be conducted in an informal manner and may be adjourned from time to time. The general public shall be excluded[,] and only such persons shall be admitted as are found by the court to have a direct interest in the case. The child may be excluded from the hearing at any time at the discretion of the court. If a party is without counsel[,] or a guardian ad litem, the court shall inform the party of the right to be represented by counsel and to appeal [from any order of the court].

[(d) At the conclusion of an adjudicatory hearing and after it has made findings required before a disposition hearing may commence, the court may adjourn the proceedings to make or order an inquiry into the surroundings, conditions, and capacities of the parties involved in the proceedings.]"

SECTION 27. Section 587-63, Hawaii Revised Statutes, is amended to read as follows:

“[[§587-63[]] Sustaining or dismissing petition [and]; interim orders.

(a) If facts sufficient to sustain the petition are established in accord with this chapter[, or if all parties consent], the court[, subject to the provisions of subsection (c),] shall enter an order finding that the child is a child whose physical or psychological health or welfare has been harmed or [subjected] is subject to threatened harm by the acts or omissions of the child's family and shall state the grounds for the finding[. Upon the completion of the adjudicatory hearing, the disposition hearing may commence immediately after the required findings are made or the court may set the disposition hearing for such time as it deems appropriate.]; provided that if all parties consent, the grounds for the finding may be based upon the report or reports submitted pursuant to section 587-40 or other stipulated evidence deemed by the court to constitute an adequate basis for the court's invoking its jurisdiction, which report or reports or stipulated evidence may be admitted into evidence subject to reservation by the parties of their right to cross-examination subject to section 587-40(c).

(b) If facts sufficient to sustain the petition under this chapter are not established, the court shall dismiss the petition and shall state the grounds for dismissal.

(c) If the court sustains the petition and does not commence immediately the disposition hearing, it shall:

- (1) [determine,] Determine, based upon the facts adduced during the adjudicatory hearing and any other additional facts presented to it, whether a temporary foster custody order should be continued or should be entered pending [a final] an order of disposition. The court shall consider all relevant prior and current information pertaining to the guidelines for determining whether the child's family is willing and able to [exercise or to] provide the child with a safe family home, as set forth in section [587-2] 587-25 and the report or reports submitted pursuant to section 587-40, and proceed pursuant to section 587-53(f) or (g) prior to rendering a determination[.]; and

[(d) If at any stage of the child protective proceedings, the court determines that the child's family will not or cannot provide the child with a safe home, the court shall either continue or enter a temporary foster custody order pending a final order of disposition; provided that the court first shall give due consideration to ordering the removal from the child's family home of the perpetrator of harm or threatened harm to the child prior to continuing or placing the child in emergency foster care. The child's family shall have the burden of establishing by a preponderance of the evidence that it is not in the best interests of the child that the perpetrator be removed from the family's home by order of the court.

(e) If siblings or psychologically bonded children are removed from their family home, the court may order that every reasonable effort be made to place them together.

- (f) Pending a final order of disposition, the court shall make]

- (2) Enter such orders regarding visitation and the provision of services to the child and the child's family and [their] the child's and family's acceptance and cooperation with such services as the court deems to be appropriate and consistent with the best interests of the child.

[(g)] (d) Orders [verbally] orally stated by the court on the record in a proceeding under this chapter shall have full force and effect upon the date of

the hearing until further order of the court; provided that all [verbal] oral orders shall be reduced [into] to writing as soon as convenient.”

SECTION 28. Section 587-71, Hawaii Revised Statutes, is amended to read as follows:

“[[§587-71[]] **Disposition hearing.** (a) The court may consider any information relevant to [a] disposition which is in the best interests of the child; provided that the court shall determine initially whether the child’s family home is a safe family home. The court shall consider fully all relevant prior and current information pertaining to the guidelines for determining whether the child’s family is willing and able to [exercise or to] provide the child with a safe family home, as set forth in section [587-2] 587-25 and the report or reports submitted pursuant to section 587-40, in rendering such a determination.

(b) If the court determines that the child’s family is presently willing and able to provide the child with a safe family home without the assistance of a service plan, the court shall terminate jurisdiction.

[(b)] (c) If the court determines that the child’s family home is a safe family home[,] with the assistance of a service plan, the court shall[:

(1) Place] place the child and the child’s family members who are parties under the family supervision of [the department or other appropriate] an authorized agency, return the child to the child’s family home, and enter [such] further orders, including, but not limited to, restrictions upon the rights and duties of the [department or other appropriate] authorized agency, as the court deems to be in the best interests of the child[; or

(2) Terminate jurisdiction].

[(c)] (d) If the court determines that the child’s family home is not a safe family home, even with the assistance of a service plan, the court shall vest foster custody of the child in an authorized agency and enter such further orders as the court deems to be in the best interests of the child.

(e) If the child’s family home is determined not to be safe, even with the assistance of a service plan pursuant to subsection (d), the court may, and if the child has been residing without the family home for a period of two years shall, set the case for a show cause hearing at which the child’s family shall have the burden of presenting evidence to the court regarding such reasons and considerations as the family has to offer as to why the case should not be set for a permanent plan hearing. Upon such show cause hearing as the court deems to be appropriate, the court shall consider the criteria set forth in section 587-73(a)(1), (2), and (4), and:

(1) Set the case for a permanent plan hearing and order that the authorized agency submit a report pursuant to section 587-40; or

(2) Proceed pursuant to subsection (f).

[(d) If] (f) Except as provided in subsection (e)(1), if the court does not terminate the court’s jurisdiction, the court shall order in every case that the [department or other] authorized agency make every reasonable effort, pursuant to section 587-40, to prepare a written service plan, [and submit copies to the court and to each of the parties within thirty days from the date of the hearing unless the court deems an extension of time for submittal of the service plan to be in the best interests of the child.] as set forth in section 587-26.

[(e)] (g) The court [shall set a] may continue the disposition hearing concerning the terms and conditions [set forth in] of the proposed service plan [unless] to a date within forty-five days from the date of the original disposition hearing, unless the court deems a later date to be in the best interests of the

child; provided that if the court is convinced that [each of the parties have] a party has signed and fully [understand] understands and [accept] accepts the service plan, [in which event,] the court may order that the service plan shall constitute the service plan by court order concerning such party and that the service plan [shall] be entered into evidence [without a] with such party's presence being waived for good cause shown at the continued disposition hearing.

(h) Prior to ordering a service plan at the disposition or continued disposition hearing, the court shall make a finding that each term, condition, and consequence of the service plan has been thoroughly explained to and is understood by each party or a party's guardian ad litem.

(i) After such hearing as the court deems to be appropriate, the court may order such terms, conditions, and consequences to constitute a service plan as the court deems to be in the best interests of the child; provided that a copy of the service plan shall be incorporated as part of the order.

[(f)] (j) The court may order that any party participate in, complete, be liable for, and make every good faith effort to arrange payment for such services or treatment as are authorized by law and are deemed to be in the best interests of the child.

[(g)] (k) At any stage of the child protective proceedings, the court may order that a child [shall] be examined by a physician, surgeon, psychiatrist, or psychologist, and it may order treatment by any of them[,] of a child as is [authorized by law, and is] deemed to be in the best interests of the child. For either the examination or treatment, the court may place the child in a hospital or other suitable facility.

[(h)] (l) The court [may] shall order reasonable supervised or unsupervised visitation rights to the child's family and to any person interested in the welfare of the child and that such visitation shall be in the discretion of an authorized agency[,] and the child's guardian ad litem, unless it is shown that such rights of visitation may be detrimental to the best interests of the child.

(m) In any case that a permanent plan hearing is not deemed to be appropriate, the court shall make a finding that each party understands that unless the family is willing and able to provide the child with a safe family home, even with the assistance of a service plan, within the reasonable period of time specified in the service plan, their respective parental and custodial duties and rights shall be subject to termination."

SECTION 29. Section 587-72, Hawaii Revised Statutes, is amended to read as follows:

"[[§587-72[]] Review hearings. (a) Except for good cause shown, the court shall set each case for review hearing not later than six months after the date that a service plan is ordered by the court and, thereafter, the court shall set subsequent review hearings at intervals of no longer than six months[,] until the court's jurisdiction has been terminated[,] or an order of permanent custody has been entered; the court may set a case for a review hearing upon the motion of a party at any time if such hearing is deemed by the court to be in the best interests of the child.

(b) Notice of review hearings shall be served upon the parties and upon the present foster parent or parents, each of whom shall be [a party] entitled to participate in the proceedings[,] as a party.

(c) The department or other appropriate authorized agency shall make every reasonable effort to submit a written report, pursuant to section 587-41(c), or a written explanation regarding why the report is not being submitted timely

to the court with copies to the parties or their counsel or guardian ad litem at least fifteen days before the date set for each review hearing.

(d) The report pursuant to subsection (c) specifically shall:

- (1) Evaluate as to whether the parties have complied with, performed, and completed, if possible, each and every term and condition of the service plan which was ordered for the child;
- (2) Recommend as to whether the court should enforce the consequences set forth in the service plan pertaining to compliance or noncompliance by the parties with the terms and conditions of the service plan;
- (3) Recommend as to whether the court should order revisions to the existing service plan, and if so, set forth the proposed revisions and the basis for recommending such revisions; and
- (4) Set forth recommendations as to such further orders as are deemed to be appropriate and state the basis for recommending that such orders be entered.

(e) (c) Upon each review hearing the court shall[:] consider fully all relevant prior and current information pertaining to the guidelines for determining whether the child's family is willing and able to provide the child with a safe family home, as set forth in section 587-25, including, but not limited to, the report or reports submitted pursuant to section 587-40, and:

- (1) Determine whether the child's family is presently willing and able to provide the child with a safe family home without the assistance of a service plan and, if so, the court shall terminate jurisdiction;
- (2) Determine whether the child's family is presently willing and able to provide the child with a safe family home with the assistance of a service plan and, if so, the court shall return the child or continue the placement of the child in the child's family home under the family supervision of the appropriate authorized agency; or
- (3) If the child's family home is determined, pursuant to subsection (c)(2), not to be safe, even with the assistance of a service plan, order that the child remain or be placed under the foster custody of the appropriate authorized agency and, the court may, and if the child has been residing without the family home for a period of two years or there has been a court ordered service plan for a period of one year shall, set the case for a show cause hearing at which the child's family shall have the burden of presenting evidence to the court regarding such reasons and considerations as the family has to offer as to why the case should not be set for a permanent plan hearing. Upon such show cause hearing as the court deems to be appropriate, the court shall consider the criteria set forth in section 587-73(a)(1), (2), and (4), or section 587-73(e), and:

(A) Set the case for a permanent plan hearing and order that the authorized agency submit a report pursuant to section 587-40;
or

(B) Proceed pursuant to paragraphs (4), (5), and (6);

- [(1)] (4) Determine whether the parties have complied with, performed, and completed[, if possible,] each and every term and condition of the service plan which was previously court ordered;
- [(2)] Enforce the consequences set forth in the service plan pertaining to compliance or noncompliance by the parties with any of the terms and conditions of the service plan;

- (3) (5) Order such revisions to the existing service plan, after ensuring that the requirement of section 587-71(h) is satisfied, as the court, upon such hearing as the court deems to be appropriate, determines to be in the best interests of the child; provided that a copy of the revised service plan shall be incorporated as part of the order; and
- [(4)] (6) Enter such further orders as the court deems to be in the best interests of the child.

(d) In any case that a permanent plan hearing is not deemed to be appropriate, the court shall make a finding that the parties understand that unless the family is willing and able to provide the child with a safe family home, even with the assistance of a service plan, within the reasonable period of time specified in the service plan, their respective parental and custodial duties and rights shall be subject to termination.

[(f) The court shall consider the need for permanency planning for the child at each review hearing and at the twelve-month review hearing, if the child is not returned to the child's family, the court shall proceed to enter orders consistent with the following:

- (1) If the child was under the age of three at the time of placement in foster care, the court shall order permanency planning be commenced for the child if the court determines that the child's family has failed to comply substantially with the terms and conditions of the service plan and that both the recommendations of the child's guardian ad litem and of the department or other authorized agency support the initiation of permanency planning; or
- (2) If a child was over the age of three at the time of placement, the court shall order permanency planning if the court determines that the child's family has failed to comply substantially with the terms and conditions of the service plan and such parties have not provided the court with an adequate excuse or explanation for such noncompliance and that both the recommendations of the child's guardian ad litem and the department or other appropriate authorized agency support the initiation of permanency planning; or
- (3) If siblings or psychologically bonded children are placed together in foster care, the court shall enter orders concerning permanency planning for each of such children consistent with paragraph (1) or (2), depending upon the age of the youngest child at the time of the children's placement in foster care, unless it is not in each of the children's best interests to proceed in such manner; and
- (4) Enter such further orders as the court deems to be in the best interests of the child.

(g) The court shall order permanency planning for the child at the eighteen-month review hearing, if the child cannot be returned to the child's family home at that time.

- (h) The court may order permanency planning for the child as follows:
- (1) That a petition for termination of parental rights pursuant to section 571-61 be commenced as soon as practicable and that such petition be consolidated with the child protective proceedings;
 - (2) That a petition for guardianship pursuant to section 560:5-201 be commenced as soon as practicable, and that such petition be consolidated with the child protective proceedings;
 - (3) That if the child is sixteen years of age, and is of sufficient physical and psychological maturity, the court may order that the child be

deemed to be emancipated and shall be regarded as though the child were of legal age and shall have all the rights, duties, privileges, and responsibilities provided by the civil law to a person who has reached the age of majority under civil law; provided that:

- (A) Nothing in this section shall be deemed to confer upon such person the right to vote in any federal, state, or county election or the right to purchase, possess, or sell alcoholic beverages; and
- (B) Nothing in this section shall change the status of such persons as a child in connection with any criminal law, nor affect the exclusive original jurisdiction of the family court over such persons under section 571-11(1); or
- (4) That the child shall remain in long-term foster care until the age of majority pursuant to a long-term foster care contract unless the child is emancipated prior thereto pursuant to paragraph (3) and that such status shall not be subject to modification or to revocation except upon a showing of extraordinary circumstances to the court.]”

SECTION 30. Chapter 587, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

“§587-73 Permanent plan hearing. (a) At the permanent plan hearing, the court shall consider fully all relevant prior and current information pertaining to the guidelines for determining whether the child’s family is willing and able to provide the child with a safe family home, as set forth in section 587-25, including, but not limited to, the report or reports submitted pursuant to section 587-40, and determine whether there exists clear and convincing evidence that:

- (1) The child’s family is not presently willing and able to provide the child with a safe family home, even with the assistance of a service plan;
 - (2) It is not reasonably foreseeable that the child’s family will become willing and able to provide the child with a safe family home, even with the assistance of a service plan, within a reasonable period of time which shall not exceed three years from the date upon which the child was first placed under foster custody by the court;
 - (3) The proposed permanent plan is in the best interests of the child; provided that the court shall presume that:
 - (A) It is in the best interests of a child to be promptly and permanently placed with responsible and competent substitute parents and families in safe and secure homes; and
 - (B) Such presumption increases in importance proportionate to the youth of the child upon the date that the child was first placed under foster custody by the court; and
 - (4) If the child has reached the age of fourteen, the child is supportive of the permanent plan.
- (b) If the court determines that the criteria set forth in subsection (a) are established by clear and convincing evidence, the court shall order:
- (1) That the existing service plan be terminated and that the prior award of foster custody be revoked;
 - (2) That permanent custody be awarded to an appropriate authorized agency;

- (3) That an appropriate permanent plan be implemented concerning the child whereby the child will:
 - (A) Be adopted pursuant to section 587-74; provided that the court shall presume that it is in the best interests of the child to be adopted, unless the child is in the permanent custody of family or persons who have become as family and who for good cause are unwilling or unable to adopt the child but are committed to and are capable of being the child's permanent custodians; or
 - (B) Remain in permanent custody until the child is subsequently adopted or reaches the age of majority, and that such status shall not be subject to modification or revocation except upon a showing of extraordinary circumstances to the court;
- (4) That such further orders as the court deems to be in the best interests of the child, including, but not limited to, restricting or excluding unnecessary parties from participating in adoption or other subsequent proceedings, be entered; and
- (5) Until the child is adopted, that each case be set for a permanent plan review hearing not later than one year after the date that a permanent plan is ordered by the court, or sooner if required by federal law, and thereafter, that subsequent permanent plan review hearings be set not later than each year, or sooner if required by federal law; provided that at each permanent plan review hearing, the court shall review the existing permanent plan and enter such further orders as are deemed to be in the best interests of the child.
- (c) If the court determines that the criteria set forth in subsection (a) are not established by clear and convincing evidence, the court shall order that:
 - (1) The permanent plan hearing be continued for a reasonable period of time not to exceed six months from the date of the continuance;
 - (2) The existing service plan be revised as the court, upon such hearing as the court deems to be appropriate and after ensuring that the requirement of section 587-71(h) is satisfied, determines to be in the best interests of the child; provided that a copy of the revised service plan shall be incorporated as part of the order;
 - (3) The authorized agency submit a written report pursuant to section 587-40; and
 - (4) Such further orders as the court deems to be in the best interests of the child be entered.
- (d) At the continued permanent plan hearing, the court shall proceed pursuant to subsections (a), (b), and (c) until such date as the court determines that:
 - (1) There is sufficient evidence to proceed pursuant to subsection (b); or
 - (2) The child's family is willing and able to provide the child with a safe family home, even with the assistance of a service plan, upon which determination the court may:
 - (A) Revoke the prior award of foster custody to the authorized agency and return the child to the family home; and
 - (B) Terminate jurisdiction; or
 - (C) Award family supervision to an authorized agency;
 - (D) Order such revisions to the existing service plan as the court, upon such hearing as the court deems to be appropriate and after ensuring that the requirement of section 587-71(h) is satisfied, determines to be in the best interests of the child;

provided that a copy of the revised service plan shall be incorporated as part of the order;

(E) Set the case for a review hearing; and

(F) Enter such further orders as the court deems to be in the best interests of the child.

(e) The court shall order a permanent plan for the child within three years of the date upon which the child was first placed under foster custody by the court, if the child's family is not willing and able to provide the child with a safe family home, even with the assistance of a service plan."

SECTION 31. Chapter 587, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"§587-74 Adoption. (a) Pursuant to section 587-73(b)(3)(A), upon such further hearing as the court deems to be appropriate, the court may order a decree of adoption as part of a permanent plan for a child upon a determination of the court that:

(1) The child would otherwise be adoptable under chapter 578 and the court has received such information, consents and other exhibits as are prescribed by the family court for a proceeding pursuant to chapter 578; provided no additional petition or notice shall be required other than such as has been previously required under this chapter;

(2) The child is physically, mentally, and otherwise suitable for adoption by the proposed adoptive parent or parents; and

(3) The proposed adoptive parent or parents, who shall be made parties to the proceeding, are fit and proper persons and financially able to give the child a proper home and education; and

(4) The adoption will be for the best interests of the child.

(b) Subsequent to the entry of a decree of adoption, the court shall proceed pursuant to chapter 578 and other rules or regulations concerning adoption as are prescribed by the supreme court with the advice of the family court."

SECTION 32.³ Section 587-73, Hawaii Revised Statutes, is repealed.

SECTION 33. Section 587-74, Hawaii Revised Statutes, is amended to read as follows:

"[[§587-74]] §587-76 Payment for service or treatment provided to a party or for a child's care, support, or treatment. Whenever a service or treatment is provided to a party, or whenever care, support, or treatment of a child is provided under this chapter, after due notice to the persons or legal entities legally obligated to pay for such service, treatment, care, or support of the child, and after a hearing, the court may order that such a legally obligated person shall pay, in such a manner as the court may direct, a reasonable sum that will cover in whole or in part the cost of the service or treatment provided to a party, or the cost of the care, support, or treatment provided for the child. The provisions of section 571-52 and all other remedies available under the law shall be applicable to enforce such orders."

SECTION 34. Section 587-75, Hawaii Revised Statutes, is amended to read as follows:

"[[§587-75]] §587-77 Failure to comply with terms or conditions of an order of the court. If a party[, other than an authorized agency,] fails to comply with the terms and conditions of an order issued under this chapter [and if, after

a hearing, the court is satisfied by the appropriate proof that such party did so willfully and without just cause], the court may apply the provisions of section 710-1077 and all other provisions available under the law."

SECTION 35. Section 587-76, Hawaii Revised Statutes, is amended to read as follows:

"[**§587-76**] **§587-78 Appeal.** An interested party aggrieved by any order or decree of the court may appeal as provided by section 571-54."

SECTION 36. Section 587-81, Hawaii Revised Statutes, is amended to read as follows:

"[**§587-81**] **Court records.** The court shall keep a record of all child protective proceedings under this chapter. The written reports, photographs, x-rays, or other information of any nature which are submitted to the court may be made available to [parties and to] other appropriate persons, who are not parties, only upon an order of the court after the court has determined [showing] that such access is in the best interests of the child or serves some other legitimate purpose]. Any party or person receiving records shall not disclose any information included in the records to third persons without a prior court order.]; provided that the department may disclose, without order of the court, such information as is in the court record in the manner and to the extent as is set forth in departmental rules that have been legally promulgated and concern the confidentiality of records; provided further that:

- (1) The department shall not disclose parties' names to researchers without prior order of the court; and
- (2) The department shall report each disclosure to the court and all parties as part of its next report to the court after the department has disclosed information pursuant to this section."

SECTION 37. Section 587-82, Hawaii Revised Statutes, is amended to read as follows:

"[**§587-82**] **Fiscal responsibility.** The court, the department, or other authorized agency shall provide only the care, service, treatment, or support, or the payment for care, service, treatment, or support, as is set forth in the budget of the court, the department, or authorized agency and is authorized by law."

SECTION 38. Section 587-83, Hawaii Revised Statutes, is amended to read as follows:

"[**§587-83**] **Short title.** This chapter shall be known and cited as the "Child Protective Act"."

SECTION 39. Section 587-84, Hawaii Revised Statutes, is amended to read as follows:

"[**§587-84**] **Cooperation.** Every public official or department shall render all assistance and cooperation within such person's or its jurisdictional power which may further the purpose and objectives of this chapter. The department and the court may seek the cooperation of organizations whose objective is to protect or aid children and family life."

SECTION 40. There is appropriated out of the general revenues of the State of Hawaii the sum of \$18,000 or so much thereof as may be necessary for fiscal year 1986-1987, for the implementation of the criminal history record checks required under this Act.

SECTION 41. The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

SECTION 42. Statutory material to be repealed is bracketed. New statutory material is underscored.⁴

SECTION 43. This Act shall take effect upon its approval.

(Approved June 6, 1986.)

Notes

1. Should be underscored.
2. So in original.
3. Section designation corrected.
4. Edited pursuant to HRS §23G-16.5.

ACT 317

H.B. NO. 2424-86

A Bill for an Act Relating to No-fault Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 294, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§294- Total loss motor vehicle claims. (a) When a no-fault insurance policy provides for the adjustment and settlement of an insured's motor vehicle's total losses on the basis of actual cash value or replacement, the insurer shall follow one of the following methods:

- (1) The insurer may elect to offer a replacement vehicle. A replacement vehicle is a specific, comparable, and available vehicle in as good or better overall condition than the total loss vehicle. If the insurer offers a replacement vehicle, it shall comply with the following requirements:
 - (A) The claim file which is maintained by the insurer shall contain a description of the replacement vehicle, including the vehicle identification number and a schedule of options;
 - (B) Replacement vehicles of the current model plus the three previous model years shall be purchased through motor vehicle dealers licensed under chapter 437. This requirement may be waived in writing by the insured. The signed waiver shall be maintained in the insurer's claim file;
 - (C) If the insured elects a cash settlement instead of a replacement vehicle, the insurer need pay only the amount it would have otherwise paid on the replacement vehicle. As a condition precedent to this method of settlement, the insurer shall first offer the replacement vehicle to the insured and the insured must have rejected the offer. Evidence of the rejection shall be apparent in the file;
 - (D) If the insured rejects the replacement vehicle and wants another vehicle substantially similar in value, this option may be exercised; provided the insurer has the insured's written waiver in the claim file that the acceptance of another vehicle is of the insured's own free will and choice. The insurer need pay only the amount it would have otherwise paid on the replacement vehicle.

- (2) The insurer may elect a cash settlement. A cash settlement shall be based upon the retail value of the motor vehicle as determined from a source or sources which are reflective of the market value of the total loss vehicle. If the insurer offers a cash settlement, the following shall apply:
- (A) The use of dealer quotations (when the vehicle is available at the quoting dealer's lot) and newspaper advertisements may be used in lieu of the source generally used by the insurer if the file reflects that the vehicle was not quoted in the source generally used by the insurer or the source was not reflective of market value. Dealer quotations and newspaper advertisements shall not be considered sole sources reflective of market values. When dealer quotations are used, the vehicle identification number shall be contained in the insured's claim file;
 - (B) Estimates from at least three licensed dealers may be used when vehicles are not quoted in the source usually used by the insurer and are not available for replacement. Dealer estimates shall take into consideration the condition of the insured vehicle prior to the loss;
 - (C) The documentation of the determination of the total loss vehicle market value shall be maintained in the insurer's claim file;
 - (D) If, within thirty days of the receipt of the settlement by the insured, the insured cannot purchase a comparable vehicle of like kind and quality for the market value determined by the insurer before applicable deductions and the insured has located, but not purchased, a comparable vehicle of like kind and quality in excess of such market value, the following procedure shall apply:
 - (i) The insurer shall locate a comparable vehicle of like kind and quality for the insured for the market value determined by the insurer at the time of settlement. Any comparable vehicle shall be available through licensed dealers;
 - (ii) The insurer shall either pay the insured the difference between the market value before applicable deductions and the cost of the comparable vehicle of like kind and quality which the insured has located, or negotiate and effect the purchase of this vehicle for the insured;
 - (iii) The insurer may conclude the loss settlement as provided for under the appraisal section of the insurance contract in force at the time of loss. This appraisal shall be considered as binding against both parties, but shall not preclude or waive any other rights either party has under the insurance contract or at common law; or
 - (iv) The insurer shall provide written notice to the insured at the time of settlement that if within thirty days of the receipt of the settlement by the insured, the insured cannot purchase a comparable vehicle of like kind and quality for the market value determined by the insurer before applicable deductions and the insured has located, but not purchased a comparable vehicle of like kind

and quality in excess of such market value, the insurer shall reopen its claim file.

(b) The following are applicable to subsection (a)(1) and (2)(A), (B), and (C):

(1) If a replacement vehicle is provided, the insurer shall pay the applicable general excise tax and certificate of ownership fee as follows:

(A) If a cash settlement is provided, and if within thirty days of the receipt of the settlement by the insured, the insured has purchased a vehicle, the insurer shall reimburse the insured for the applicable general excise tax and certificate of ownership fee incurred on account of the purchase of the vehicle, but not exceeding the amount payable on account of the value of the total loss vehicle. If the insured purchases a vehicle with a market value less than the amount of the settlement, then the insurer shall reimburse only the amount of the applicable general excise tax and certificate of ownership fee incurred by the insured. If the insured cannot substantiate the purchase and the payment of the taxes and fee, by submission to the insurer of appropriate documentation within thirty-three days after the receipt of settlement, the insurer shall not be required to reimburse the insured for the taxes or fee. In lieu of this reimbursement procedure, the insurer may directly pay the required amounts of general excise taxes, and certificate of ownership fee to the insured at the time of settlement; and

(B) Written notice of this procedure shall be communicated to the insured at the time of settlement, together with any form required by the insurer for applying for the reimbursement;

(2) Deductions of the kind commonly referred to as "get ready to go" and "dealer prep", or dealer preparation charges are prohibited.

§294- Insurer practices regarding loss of use, storage and towing, and betterment. (a) In motor vehicle property damage liability claims in which liability is reasonably clear, the insurer shall pay for the reasonable and necessary costs, in direct proportion to the extent of its liability, incurred in the rental of another motor vehicle as long as the loss of use claim is submitted and substantiated.

(b) The insurer shall provide reasonable notice to an insured prior to termination of payment for motor vehicle storage charges and document the notice in the claim file. Reasonable notice shall constitute sufficient notice to the insured to allow the insured to remove the vehicle from storage prior to the termination of payment. Unless the insurer has provided an insured with the name of a specific towing company prior to the insured's use of another towing company, the insurer shall pay any and all reasonable towing charges irrespective of the towing company used by the insured. An insurer shall make no advance charge deductions for storage and towing charges unless excessive charges have resulted from the insured's own actions. The insurer shall itemize each advance charge deduction and maintain in its claim file documentation of the reasons and dollar amounts involved in each deduction. Any determination of reasonable towing charges shall consider policy coverage as well as the cost and distances involved in each claim.

(c) Betterment deductions are allowable only if the deductions:

(1) Reflect a measurable decrease in market value attributable to the poorer condition of, or prior damage to, the insured vehicle;

- (2) Are for prior wear and tear, missing parts and rust damage that is reflective of the general overall condition of the vehicle considering its age; provided that any deductions for this type of damage shall not exceed \$500; and
- (3) Are measurable, itemized, specified as to dollar amount, and documented in the insurer's claim file.

No insurer shall require the insured or claimant to supply parts for replacement."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 318

H.B. NO. 2586-86

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431-300, Hawaii Revised Statutes, is amended to read as follows:

"§431-300 Banks, [and] savings and loan associations[.], and credit unions. (a) An insurer may invest or deposit any of its funds in checking or savings accounts, under separate certificates of deposit, or in any other form in solvent banks or trust companies.

(b) An insurer may invest any of its funds in shares or savings accounts in solvent savings and loan associations.

(c) An insurer may deposit any of its funds in shares or share draft accounts in solvent state-chartered credit unions or federally-chartered credit unions."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved June 6, 1986.)

ACT 319

H.B. NO. 2722-86

A Bill for an Act Relating to Contractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 444-11, Hawaii Revised Statutes, is amended to read as follows:

"§444-11 No license issued when. No license hereunder shall be issued to:

- (1) Any person unless [he] the person has filed an application therefor;
- (2) Any person who does not possess a good reputation for honesty, truthfulness, financial integrity, and fair dealing; provided that any

person who during the six years prior to application has failed to satisfy an undisputed debt or a judgment relating to services or materials rendered in connection with operations as a contractor shall be presumed not to possess a good reputation for financial integrity;

- (3) Any individual unless [he is of the] the individual is age [of] eighteen years or more;
- (4) Any copartnership or joint venture which is not exempt under section 444-2(8) unless the contracting business thereof is under the direct management of a partner or employee thereof, and unless such partner or employee holds an appropriate license;
- (5) Any individual who is unable to qualify as a contractor or any corporation, unless the contracting business of such individual or corporation is under the direct management of an officer or employee thereof, and unless such officer or employee holds an appropriate license;
- (6) Any person unless [he] the person submits satisfactory proof to the contractors license board that [he] the person has obtained workers' compensation insurance or has been authorized to act as a self-insurer as required by chapter 386;
- (7) The provisions of this section shall not apply when it is determined by the contractors license board that less than ten persons are qualified to perform the work in question. The provisions also shall not apply with respect to public works projects which require additional qualifications beyond those established by the licensing law, and which are deemed necessary and in the public interest by the contracting agency.

In addition, any license issued hereunder shall not be renewed if the licensee no longer meets any one or more of the foregoing qualifications."

SECTION 2. Section 444-16.5, Hawaii Revised Statutes, is amended to read as follows:

"[[§444-16.5]] **Bond.** The contractors license board may require each licensee, applicant, individual or corporate, who is a specialty contractor to put up bond in the sum of not less than [\$2,500] \$5,000 executed by the licensee or applicant as principal and by a surety company authorized to do business in the State as surety.

The board may require each licensee, applicant, individual or corporate, who is a general contractor to put up a bond in the sum of not less than \$5,000 executed by the licensee or applicant as principal and by a surety company authorized to do business in the State as surety.

The board, in exercising its discretion shall take into consideration the licensee's or applicant's financial condition and [his] experience in the field.

The bond shall be in such form as the board may prescribe, conditioned upon the payment of wages, as defined in section 104-1(5), to the employees of the contractor or any other person or entity entitled to such wages when due, and giving employees or any other person or entity entitled to such wages who have not been paid a right of action on the bond in their own names; and upon the honest conduct of the business of the licensee, and upon the right of any person injured or damaged by any wrongful act of the licensee to bring [in his own name] an action on the bond; provided that any claim for wages shall have priority over all other claims."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 6, 1986.)

ACT 320

S.B. NO. 1780-86

A Bill for an Act Relating to the Allotment System and the Executive Budget.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 37-34, Hawaii Revised Statutes, is amended to read as follows:

“§37-34 Appropriations available for allotment; estimate of expenses. (a) No appropriation to which the allotment system is applicable shall become available to any department or establishment for expenditure during any allotment period until the department or establishment submits to the director of finance at such time prior to the beginning of the allotment period and in such form as the director may prescribe an estimate of the amount required to carry on the work of the department or establishment during that period, and until the estimate is approved, increased, or decreased by the director and funds allotted [therefor.] pursuant to section 37-35.

(b) Before appropriations for the University of Hawaii or the department of education become available to the university or the department of education, the governor, with the assistance of the director of finance, as may be necessary, shall establish allotment ceilings for each source of funding of all of the appropriations of the University of Hawaii and the department of education for each allotment period; and advise the university and the department of education of these determinations.”

SECTION 2. Section 37-35, Hawaii Revised Statutes, is amended to read as follows:

“§37-35 Estimated expenditures; approval. The director of finance shall review all estimates submitted [to him,] under section 37-34 and, having due regard for the probable further needs of the department or establishment for the remainder of the term for which the appropriation was made, the terms and purposes of the appropriation, the progress of collection of revenues, and condition of the treasury, and the probable receipts and total cash requirements for the ensuing quarter, [he] shall approve, increase, or reduce the amount of the estimate[.]; provided that the director of finance shall approve the estimates submitted by the University of Hawaii or the department of education when the sum of the estimates for each funding source does not exceed the applicable allotment ceilings established by the governor under section 37-34, the progress of collection of revenues, the condition of the treasury, and the probable receipts and total cash requirements for the ensuing quarter permit, and all other legal requirements are satisfied. The director shall act promptly upon all estimates and notify each department or establishment of its allotment, and shall notify the comptroller.”

SECTION 3. Section 37-36, Hawaii Revised Statutes, is amended to read as follows:

“§37-36 Modification. The director of finance may at any time modify or amend any previous allotment [previously made by him,] upon application of, or upon notice to, the department or establishment concerned[,]; provided that for the University of Hawaii or the department of education, the director of finance may modify or amend any previous allotment only upon application of the university or the department of education, or upon notice to the university or the department of education, and the approval of the governor that the modification is necessary to avoid an illegal result; provided[,] further that no deficit or undue reduction of funds to meet future needs of the department or establishment will result therefrom; and provided[,] further[,] that no modification or amendment reduces an allotment below the amount required to meet valid obligations or commitments previously incurred against the allotted funds.”

SECTION 4. Section 37-37, Hawaii Revised Statutes, is amended to read as follows:

“§37-37 Reduction. [When] (a) Except as provided in subsection (b), when the director of finance determines at any time that the probable receipts from taxes or any other sources for any appropriation will be less than was anticipated, and that consequently the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor, the director shall, with the approval of the governor[,] and after notice to the department or establishment concerned, reduce the amount allotted or to be allotted[,]; provided that no reduction reduces any allotted amount below the amount required to meet valid obligations or commitments previously incurred against the allotted [fund.] funds.

(b) For the University of Hawaii or the department of education, when the director of finance determines at any time that the probable receipts from taxes or any other sources for any appropriation will be less than was anticipated, and that consequently the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor, the director shall advise the governor of the situation, and the governor shall redetermine the allotment ceiling for the affected source or sources of funding pursuant to section 37-34, and shall advise the university or the department of education, as applicable, of the redetermination. The university or the department of education, within twenty days of the governor's notification, shall submit revised estimates consistent with the governor's redetermination to the director of finance; otherwise, the director of finance shall modify, amend, or reduce any allotment of the university or the department of education, as applicable, to comply with the governor's redetermination; provided that no reduction reduces any allotted amount below the amount required to meet valid obligations or commitments previously incurred against the allotted funds.”

SECTION 5. Section 37-74, Hawaii Revised Statutes, is amended to read as follows:

“§37-74 Program execution. (a) Except as limited by policy decisions of the governor, appropriations by the legislature, and other provisions of law, the several agencies responsible for administering state programs shall administer their program assignments and shall be responsible for their proper management.

(b) The appropriations by the legislature for a biennium shall be allocated between the two fiscal years of the biennium in the manner provided in the budget or appropriations act and as further prescribed by the director of finance. The amounts allocated for each fiscal year shall be subject to the allotment system prescribed in chapter 37, part II. Each agency (except the courts), in estimating its quarterly requirements under chapter 37, part II, shall prepare a plan for the fiscal year for the operation of each of the programs it is responsible for administering. The operations plan shall be in such form and content as the department of budget and finance may prescribe. It shall be submitted, together with the estimated quarterly requirements, to the department of budget and finance on such date as the department may prescribe.

(c) The department of budget and finance shall:

- (1) Review each operations plan to determine that it is consistent with the policy decisions of the governor and appropriations by the legislature, that it reflects proper planning and efficient management methods, and that appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year[.]; provided that the department of budget and finance shall review the operations plan submitted by the University of Hawaii or the department of education, as applicable, solely for consistency with the allotment ceilings established by the governor under section 37-34, appropriations by the legislature, and the status of revenues to support operations plans for all state programs.
- (2) Approve the operations plan if satisfied that it meets the requirements under paragraph (1). Otherwise, the department of budget and finance shall require revision of the operations plan in whole or in part.
- (3) Modify or withhold the planned expenditures at any time during the appropriation period if the department of budget and finance finds that such expenditures are greater than those necessary to execute the programs at the level authorized by the governor and the legislature, or that state receipts and surpluses will be insufficient to meet the authorized expenditure levels[.]; provided that the planned expenditures for the University of Hawaii or the department of education, as applicable, may be modified or withheld only in accordance with sections 37-36 and 37-37.

(d) No appropriation transfers or changes between programs or agencies shall be made without legislative authorization[. Authorized]; provided that authorized transfers or changes, when made, shall be reported to the legislature[.]; provided further that the University of Hawaii and the department of education, within their respective departments, shall have the flexibility to transfer general fund appropriations for the operating cost category among programs with the same or similar objectives, among cost elements in a program, and between quarters, as applicable, with due regard for statutory requirements, changing conditions, the needs of the programs, and the effective utilization of resources; and provided further that the university and the department of education, within their respective departments, shall account for each transfer implemented under this subsection in quarterly reports to the governor and annual reports at the end of each fiscal year to the legislature and the governor, which shall be prepared in the form and manner prescribed by the governor and shall include information on the sources and uses of the transfer.

(e) The University of Hawaii and the department of education, within their respective departments, shall not use current appropriations in any manner that would result in the expansion of programs or the initiation of new programs which may require any future increase in the commitment of state resources, without the specific prior concurrence of the legislature and advice of the governor."

SECTION 6. The legislative auditor shall conduct a review of the University of Hawaii and the department of education in order to assess and evaluate any impact of the provisions of this Act on the quality and effectiveness of the instruction, organized research, public service, academic support, student services, and institutional support program areas, as applicable, at the university and the department of education. Particular emphasis shall be given to the impact of the general fund transfer authority upon student education. This review shall be conducted in three phases with initial reports to the legislature during the first week of its 1987 regular session. Each report shall include an inventory and assessment of the condition of the university and the department of education prior to implementation of this Act; interim reports to the legislature during the first week of its 1988 regular session evaluating progress made and identifying problems encountered to date within any or all of the six program areas; and final reports to the legislature during the first week of its 1989 regular session with overall evaluations and final recommendations, including recommended drafts of legislation, on continuation of the provisions of this Act."

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 1986, and be repealed as of June 30, 1989.

(Approved June 6, 1986.)

ACT 321

S.B. NO. 2127-86

A Bill for an Act Relating to Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to:

- (1) To allow the University of Hawaii and the department of education to assume authority and responsibility for all matters relating to the acquisition of goods and services, pre-audit of payments, payroll, disbursing, fund accounting, and business and accounting forms.
- (2) Provide the board of regents of the University of Hawaii and the board of education with the authorization to approve certain exceptions to statutory competitive bidding requirements.

SECTION 2. Chapter 40, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§40- Lapse of University of Hawaii appropriations. Upon the lapse of an appropriation to the University of Hawaii, moneys which remain unencumbered shall be returned to the state treasury within ninety days."

SECTION 3. Chapter 40, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§40- Lapse of department of education appropriations. Upon the lapse of an appropriation to the department of education, moneys which remain unencumbered shall be returned to the state treasury within ninety days.”

SECTION 4. Section 40-1, Hawaii Revised Statutes, is amended to read as follows:

“§40-1 Comptroller to supervise accounts, etc. (a) The comptroller shall be the general accountant of the State[,] and [he] shall cause to be recorded every receipt and disbursement of money made to, by, or through the treasury. [He] The comptroller shall have the power to withhold any disbursement for which no appropriation has been made or which would cause a specific appropriation to be exceeded.

(b) With respect to the executive branch, [he] except the University of Hawaii and the department of education, the comptroller shall have complete supervision of all accounts. [He] The comptroller shall pre-audit all proposed payments to determine the propriety of expenditures and compliance with such executive orders[,] and rules [and regulations] as may be in effect. [He shall, when] When necessary, the comptroller shall withhold [his] approval of any payment. Whenever [he withholds his approval, he shall promptly notify] approval is withheld, the department or agency concerned[,] shall be promptly notified. With respect to the University of Hawaii and the department of education, the comptroller shall issue warrants for the release of funds for the operating costs of the university or the department of education, as applicable, in amounts and at times mutually agreed upon by the governor or director of finance and the university or department of education, as applicable; provided that the amounts released shall not exceed the allotment ceilings for the respective funding sources of the university's or the department of education's appropriations established by the governor for an allotment period pursuant to section 37-34. The University of Hawaii and the department of education shall pre-audit all proposed payments to determine the propriety of expenditures and compliance with applicable laws, executive orders, and rules as may be in effect. The University of Hawaii and the department of education shall make disbursements for payroll and other operating expenses from the amounts released by the comptroller and maintain records and documents necessary to support those disbursements at times mutually agreed upon by the university president or the superintendent of education, as applicable, and the comptroller; provided that when requested by the university or the department of education, the comptroller shall make all disbursements for the university or the department of education, as applicable, subject to available allotment. Funds released pursuant to this section shall be deposited by the university or the department of education, as applicable, in accordance with the provisions applicable to the director of finance by chapter 38. Any interest earned on the deposit of funds released pursuant to this section shall be deposited in the state treasury at the end of each fiscal year.

(c) With respect to the judiciary and the legislature, [he] the comptroller shall make available to the judiciary and the legislature the total amount appropriated to each, except that the judiciary and the legislature may request [his] the comptroller's services in maintaining custody of the amount appropriated to each and in making payments therefrom. When such services are requested, [he] the comptroller shall make all disbursements requested by the judiciary or the legislature, but [he] shall not make any disbursements for which

no appropriation has been made or which would cause a specific appropriation to be exceeded.

(d) Any financial transaction recorded [by the comptroller] may be inspected by the public."

SECTION 5. Section 40-2, Hawaii Revised Statutes, is amended to read as follows:

"§40-2 Accounting systems and internal control; enforcing the use of and inspection of the same. The accounting system installed by the commission on public accountancy under Act 181, session laws of Hawaii 1923, as amended by Act 220, session laws of Hawaii 1925, for use in the offices of the comptroller, director of finance, departmental and agency services of the State, and the auditors, treasurers, departmental and agency services of the several counties shall be the accounting and reporting systems of the State and counties[.]; provided that the University of Hawaii may install a different accounting system which shall be in conformity with generally accepted accounting principles as applied to colleges and universities; and provided further that the department of education may install a different accounting system which shall be in conformity to generally accepted accounting principles. The comptroller shall make such changes and modifications in the accounting system as shall from time to time appear to be in the best interest of the State and counties.

The departments and agencies of the executive branch are respectively charged with the responsibility to maintain an adequate system of internal control and with the further responsibility to see that the internal control system continues to function effectively as designed. The comptroller shall make such investigations and audits from time to time to enforce the use of the accounting system and internal control systems in the executive branch.

The judiciary, the legislature, and each county shall be responsible for the establishment and maintenance of its respective internal control system."

SECTION 6. Section 40-4, Hawaii Revised Statutes, is amended to read as follows:

"§40-4 Publication of statements. The comptroller shall prepare and submit to the governor, and publish in a newspaper of general circulation in the State, immediately following the close of each fiscal year, a statement of income and expenditure by funds, showing the principal sources of revenue, the function or purpose for which expenditures were made, together with a consolidated statement showing similar information for all funds; also a statement showing the balance in each fund at the beginning of the fiscal year, plus the receipts, minus the disbursements, and the balance on hand at the close of the fiscal year after deducting outstanding warrants and vouchers. The comptroller may request all agencies, the judiciary, the University of Hawaii, the department of education, and the legislature to provide such information as may be required for the preparation of¹ statements."

SECTION 7. Section 40-6, Hawaii Revised Statutes, is amended to read as follows:

"§40-6 Approval of business and accounting forms. The comptroller shall determine the forms required to adequately supply accounting and statistical data for the state government. The comptroller shall require heads of departments and establishments of the state government to submit proposed new forms or proposed changes in current business and accounting forms for review and approval before ordering the same printed[.]; except that the University of

Hawaii and the department of education shall be subject to this requirement only with respect to uniform business and accounting forms of statewide use in the State's accounting system. All standard state forms shall be classified, numbered, and standardized in design, dimensions, color, and grade of paper and recorded in a catalogue of accounting and statistical forms by the comptroller."

SECTION 8. Section 40-81, Hawaii Revised Statutes, is amended to read as follows:

"§40-81 Report by agencies receiving special moneys. All state officers, departments, boards, bureaus, commissions, or agencies collecting or receiving any moneys not required by law to be deposited in the state treasury shall report to the comptroller all receipts and disbursements on account thereof for each quarterly period of the calendar year not later than the fifteenth day following the end of each quarterly period on such forms and under such rules [and regulations] as may be prescribed by the comptroller[.]; provided that with respect to all moneys held outside the state treasury by the University of Hawaii or the department of education pursuant to the authority granted to the university and the department of education by this chapter, the University of Hawaii and the department of education shall report to the comptroller all transactions for each quarterly period not later than the fifteenth day following the end of each quarterly period on such forms and under such rules as may be prescribed by the comptroller."

SECTION 9. Section 103-23, Hawaii Revised Statutes, is amended to read as follows:

"§103-23 Additional exceptions. (a) Expenditures in excess of such sum without so contracting may be made, with the approval of the legislative body, in the case of a county, or of the governor, in the case of the State, or of the board of regents, in the case of the University of Hawaii, or of the board of education in the case of the department of education, or of its board or other governing authority[,] in the case of any independent board or agency, when the expenditures are for repairs of roads, water works, and buildings, or, with such approval, expenditures not in excess of \$15,000 for alterations of buildings, or when the work to be done is of such a nature that its extent and character cannot be known or specified beforehand with reasonable certainty, or when no tender is received in response to an advertisement, or, with such approval, expenditures not in excess of \$15,000 for new roads, water works, and buildings, either on behalf of the expending division of government or for the federal or state government or any department thereof may be made, without contract, advertisement, or sealed tenders; and, in the case of such new roads, water works, and buildings, expenditures in excess of \$15,000 may be made, with the same approval[.]; provided that the expending division of government shall first advertise for sealed tenders and shall keep a full and true account of the cost of the work, if done by itself, without awarding a contract therefor, and shall, upon the completion of the work, publish a full and true statement of its cost and of the amounts of rejected tenders, if any; and provided further that any governmental agency actually performing the work shall in no case receive more than the actual cost thereof.

(b) Nothing provided in section 103-22 shall prevent the department of health, if, after publication of a call for tenders, it receives no bids from any responsible bidder or only one bid therefrom, from purchasing at regular market

prices, meats, on the hoof or otherwise, and foodstuffs, as may from time to time be required for the Kalaupapa settlement.

(c) Special contracts or subcontracts by any governmental agency for materials or supplies or purchases of materials or supplies made in furtherance of the contract referred to in this section[,] shall be subject to the requirement of public advertisement for sealed tenders in the manner provided by law."

SECTION 10. The legislative auditor shall conduct a review of the University of Hawaii and the department of education in order to assess and evaluate any impact of the provisions of this Act on the quality and effectiveness of the instruction, organized research, public service, academic support, student services, and institutional support program areas, as applicable, at the university and the department of education. Particular emphasis shall be given to the impact of the provisions of this Act upon student education. This review shall be conducted in three phases with initial reports to the legislature during the first week of its 1987 regular session. Each report shall include an inventory and assessment of the conditions of the university and the department of education prior to implementation of this Act; interim reports to the legislature during the first week of its 1988 regular session evaluating progress made and identifying problems encountered to date within any or all of the educational program areas; and final reports to the legislature during the first week of its 1989 regular session with overall evaluations and final recommendations, including recommended drafts of legislation, on continuation of the provisions of this Act."

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 12. This Act shall take effect on July 1, 1986, and be repealed as of June 30, 1989.

(Approved June 6, 1986.)

Notes

1. Prior to amendment "the" appeared here.
2. Edited pursuant to HRS §23G-16.5.

ACT 322

H.B. NO. 1665-86

A Bill for an Act Relating to the University of Hawaii Research and Training Revolving Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 304-8.1, Hawaii Revised Statutes, is amended as follows:

1. Subsection (a) is amended to read:

"(a) There is established a University of Hawaii research and training revolving fund into which shall be deposited [thirty] fifty per cent of the total amount of indirect overhead funds generated by the university for research and training purposes in the prior fiscal year. All other receipts shall immediately be deposited to the credit of the general fund of the State. The board of regents of the University of Hawaii, [upon approval of the governor or the director of finance, if so delegated,] is authorized to expend funds deposited in the research and training revolving fund for research and training purposes which may result in additional research and training grants and contracts and for purposes of

facilitating research and training at the university. [All other receipts beyond the thirty per cent shall immediately be deposited to the credit of the general fund of the State. Except for amounts specified in subsection (c) for the purpose of providing advanced funding to meet reimbursable costs incurred in connection with federally financed research and training projects, funds unencumbered as of June 30 of each fiscal year shall be deposited to the credit of the general fund of the State.]”

2. Subsection (c) is amended to read:

“(c) On July 1, 1984, in addition to the amount specified in subsection (a), and notwithstanding section 304-10 to the contrary, the amount of \$2,500,000 derived from indirect overhead sources on account of all university held federal and other research and training contracts and grants shall be deposited into a separate account of the research and training revolving fund. The board of regents of the University of Hawaii[, upon approval of the governor, or the director of finance if so delegated,] may expend these funds for the purpose of providing advance funding to meet reimbursable costs incurred in connection with federally financed research and training projects. Any reimbursement received as a result of providing advance funding shall be deposited into the research and training revolving fund to be used for the purpose of meeting reimbursable costs incurred in connection with federally financed projects; provided that the sum of the amounts held in the research and training revolving fund for the purpose of this subsection and the amounts advanced pursuant to this subsection shall not exceed in the aggregate \$2,500,000 at any time.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1986.)

ACT 323

S.B. NO. 303

A Bill for an Act Relating to Political Parties.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 11-61, Hawaii Revised Statutes, is amended to read as follows:

“§11-61 “Political party” defined. (a) The term “political party” [shall mean] means any party which [was on the ballot at the last general election which] has qualified as a political party under sections 11-62 and 11-64 and has not been disqualified by this section [and any political group which shall hereafter undertake to form a political party in the manner provided for in sections 11-62 to 11-64]. A political party shall be an association of voters united for the purpose of promoting a common political end or carrying out a particular line of political policy and which maintains a general organization throughout the State, including a regularly constituted central committee and county committees in each county other than Kalawao.

(b) Any party which does not meet the following requirements or the requirements set forth in sections 11-62 to 11-63, shall be subject to disqualification:

- (1) A party must have had candidates running for election at the last general election for any of the offices listed in paragraphs (2) to (5) whose terms had expired. This does not include those offices which were vacant because the incumbent had died or resigned before the end of the incumbent's term;
- (2) The party received at least ten per cent of all votes cast for any of the offices voted upon by all the voters in the State;
- (3) The party received at least ten per cent of all the votes cast in at least fifty per cent of the congressional districts;
- (4) The party received at least ten per cent of all the votes cast in at least the six senatorial [disticts] districts with the lowest votes cast for the office of state senator; or
- (5) The party received at least ten per cent of all the votes cast in at least fifty per cent of the representative districts for the office of state representative."

SECTION 2. Section 11-62, Hawaii Revised Statutes, is amended to read as follows:

"§11-62 [Formation] Qualification of [new] political parties; petition. (a) Any group of persons hereafter desiring to [form a new] qualify as a political party for election ballot purposes in the State shall file with the chief election officer a petition as hereinafter provided. The petition for [the formation of a new] qualification as a political party shall:

- (1) Be filed not later than 4:30 p.m. on the one hundred fiftieth day prior to the next primary;
- (2) Declare as concisely as may be the intention of signers thereof to [form such new] qualify as a statewide political party in the State and state the name of the new party;
- (3) Contain the signatures of currently registered voters comprising not less than one per cent of the total registered voters of the State as of the last preceding general election;
- (4) Be accompanied by the names and addresses of the officers of the central committee and of the respective county [committee, where they exist,] committees of the [new] political party and by the party rules; and
- (5) Be upon the form prescribed and provided by the chief election officer.

(b) The petition shall be subject to hearing under chapter 91, if any objections are raised by the chief election officer or any other political party. All objections shall be made not later than 4:30 p.m. on the tenth day after the petition has been filed. If no objections are raised by 4:30 p.m. on the tenth day, the petition shall be approved. If an objection is raised, a decision shall be rendered not later than 4:30 p.m. on the thirtieth day after filing of the petition or not later than 4:30 p.m. on the one hundredth day prior to the primary, whichever shall first occur.

(c) The chief election officer may check the names of any persons on the petition to see that they are registered voters and may check the validity of their signatures. The petition shall be public information upon filing.

(d) Each group of persons desiring to qualify as a political party shall qualify under this section for three general elections, after which the group shall be deemed a political party for the following ten-year period, provided that each party qualified under this section shall continue to field candidates for public office during the ten year period following qualification. After each ten-year

period, the party qualified under this section shall either remain qualified under the standards set forth in section 11-61, or requalify under this section 11-62.

SECTION 3. Section 11-63, Hawaii Revised Statutes, is amended to read as follows:

“§11-63 Party rules, amendments to be filed. All [existing] parties must file their rules with the chief election officer not later than 4:30 p.m. on the one hundred fiftieth day prior to the next primary. All amendments shall be filed with the chief election officer not later than 4:30 p.m. on the thirtieth day after their adoption. The rules and amendments shall be duly certified to by an authorized officer of the party and upon filing, the rules and amendments thereto shall be a public record.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 9, 1986.)

ACT 324

H.B. NO. 1764-86

A Bill for an Act Relating to the General Excise Tax.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 237-13, Hawaii Revised Statutes, is amended to read as follows:

“§237-13 Imposition of tax. There is hereby levied and shall be assessed and collected annually privilege taxes against persons on account of their business and other activities in the State measured by the application of rates against values of products, gross proceeds of sales, or gross income, whichever is specified, as follows:

(1) Tax on manufacturers.

- (A) Upon every person engaging or continuing within the State in the business of manufacturing, including compounding, canning, preserving, packing, printing, publishing, milling, processing, refining, or preparing for sale, profit, or commercial use, either directly or through the activity of others, in whole or in part, any article or articles, substance or substances, commodity or commodities, the amount of the tax to be equal to the value of the articles, substances, or commodities, manufactured, compounded, canned, preserved, packed, printed, milled, processed, refined, or prepared, for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding, preparing, or printing them, multiplied by one-half of one percent.
- (B) The measure of the tax on manufacturers is the value of the entire product for sale, regardless of the place of sale or the fact that deliveries may be made to points outside the State.
- (C) If any person liable for the tax on manufacturers shall ship or transport his product, or any part thereof, out of the State, whether in a finished or unfinished condition, or shall sell the same for delivery outside of the State (for example, consigned

to a mainland purchaser via common carrier f.o.b. Honolulu), the value of the products in the condition or form in which they exist immediately before entering interstate or foreign commerce, determined as hereinafter provided, shall be the basis for the assessment of the tax imposed by this paragraph (1). This tax shall be due and payable as of the date of entry of the products into interstate or foreign commerce, whether the products are then sold or not. The department of taxation shall determine the basis for assessment, as provided by this paragraph, as follows:

- (i) If the products at the time of their entry into interstate or foreign commerce already have been sold, the gross proceeds of sale, less the transportation expenses, if any, incurred in realizing the gross proceeds for transportation from the time of entry of the products into interstate or foreign commerce, including insurance and storage in transit, are the measure of the value of the products.
 - (ii) If the products have not been sold at the time of their entry into interstate or foreign commerce, and in cases governed by clause (i) in which the products are sold under circumstances such that the gross proceeds of sale are not indicative of the true value of the products, the value of the products constituting the basis for assessment shall correspond as nearly as possible to the gross proceeds of sales for delivery outside the State, adjusted as provided in clause (i), or if sufficient data are not available, sales in the State, of similar products of like quality and character and in similar quantities, made by the taxpayer (unless not indicative of the true value) or by others. Sales outside the State, adjusted as provided in clause (i), may be considered when they constitute the best available data. The department shall prescribe uniform and equitable rules for ascertaining such values.
 - (iii) At the election of the taxpayer and with the approval of the department, the taxpayer may make his returns under clause (i) even though the products have not been sold at the time of their entry into interstate or foreign commerce.
 - (iv) In all cases in which products leave the State in an unfinished condition the basis for assessment shall be adjusted so as to deduct such portion of the value as is attributable to the finishing of the goods outside the State.
- (2) Tax on business of selling tangible personal property; producing.
- (A) Upon every person engaging or continuing in the business of selling any tangible personal property whatsoever (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied, and shall be assessed and collected, a tax equivalent to four per cent of the gross proceeds of sales of the business; provided that insofar as certain retailing is taxed by section 237-16, the tax shall be that levied by section 237-16, and in the case of a wholesaler,

the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business. Upon every person engaging or continuing within this State in the business of a producer the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business, or the value of the products, for sale, if sold for delivery outside the State or shipped or transported out of the State, and the value of the products shall be determined in the same manner as the value of manufactured products covered in the cases under paragraph (1)(C) of this section.

- (B) Gross proceeds of sales of tangible property in interstate and foreign commerce shall constitute a part of the measure of the tax imposed on persons in the business of selling tangible personal property, to the extent, under the conditions, and in accordance with the provisions of the Constitution of the United States and the acts of the Congress of the United States which may be now in force or may be hereafter adopted, and whenever there occurs in the State an activity to which, under the Constitution and acts of Congress, there may be attributed gross proceeds of sales, such gross proceeds shall be so attributed.
- (C) No manufacturer or producer, engaged in such business in the State and selling his products for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), shall be required to pay the tax imposed in this chapter for the privilege of so selling his products, and the value or gross proceeds of sales of the products shall be included only in determining the measure of the tax imposed upon the manufacturer or producer as such.
- (D) When a manufacturer or producer, engaged in such business in the State, also is engaged in selling his products in the State at wholesale, retail, or in any other manner, the tax for the privilege of engaging in the business of selling the products in the State shall apply to him as well as the tax for the privilege of manufacturing or producing in the State, and he shall make the returns of the gross proceeds of the wholesale, retail, or other sales required for the privilege of selling in the State, as well as making the returns of the value or gross proceeds of sales of his products required for the privilege of manufacturing or producing in the State. He shall pay the tax imposed in this chapter at the highest rate applicable for any of the privileges exercised by him in respect of the particular products, and the value or gross proceeds of sales of the products, thus subjected to tax at the highest rate, may be deducted insofar as duplicated as to the same products by the measure of the tax upon him for the other privileges enumerated in this paragraph (2), paragraph (1), and section 237-16.
- (E) A taxpayer selling to a federal cost-plus contractor may make the election provided for by paragraph (3)(C) of this section, and in any such case the tax shall be computed pursuant to the election, notwithstanding this paragraph (2) or paragraph (1) to the contrary.

- (F) The department, by regulation, may provide that a seller may take from the purchaser of tangible personal property a certificate, in such form as the department shall prescribe, certifying that the sale is a sale at wholesale. If the certificate is so provided for by regulation of the department:
 - (i) Any purchaser who shall furnish such a certificate shall be obligated to pay to the seller, upon demand, if the sale in fact is not at wholesale, the amount of the additional tax which by reason thereof is imposed upon the seller; and
 - (ii) The absence of such a certificate shall, unless the sales of the business are exclusively at wholesale, in itself give rise to the presumption that the sale is not at wholesale.
- (3) Tax upon contractors.
 - (A) Upon every person engaging or continuing within the State in the business of contracting, the tax shall be equal to four per cent of the gross income of the business; provided that insofar as the business of contracting is taxed by section 237-16, which relates to certain retailing, the tax shall be that levied by section 237-16.
 - (B) In computing the tax levied under this paragraph (3) or section 237-16, there shall be deducted from the gross income of the taxpayer so much thereof as has been included in the measure of the tax levied under paragraph (3)(A) or section 237-16, on another taxpayer who is a contractor, as defined, or who is a specialty contractor, duly licensed by the department of commerce and consumer affairs pursuant to section 444-9, in respect of his business as such, if the tax on the amount so deducted has been paid by the other person, or has been withheld by the taxpayer and shall be paid over by him to the assessor at the time of filing the return, such withholding being hereby authorized; but any person claiming a deduction under this paragraph shall be required to show in his return the name of the person paying the tax on the amount deducted by him or from whom the tax was withheld, and shall issue a receipt for any amount of tax withheld, which upon filing by the other taxpayer with his return, shall relieve the other taxpayer of liability for the amount of tax withheld.
 - (C) In computing the tax levied under this paragraph (3) against any federal cost-plus contractor, there shall be excluded from the gross income of the contractor so much thereof as fulfills the following requirements:
 - (i) The gross income exempted shall constitute reimbursement of costs incurred for materials, plant, or equipment purchased from a taxpayer licensed under this chapter, not exceeding the gross proceeds of sale of the taxpayer on account of the transaction.
 - (ii) The taxpayer making the sale shall have certified to the department that he is taxable with respect to the gross proceeds of the sale, and that he elects to have the tax on such gross income computed the same as upon a sale to the state government.

- (D) A person who, as a business or as a part of a business in which he is engaged, erects, constructs, or improves any building or structure, of any kind or description, or makes, constructs, or improves any road, street, sidewalk, sewer, or water system, or other improvements on land held by him (whether held as a leasehold, fee simple, or otherwise), shall upon the sale or other disposition of the land or improvements, even if the work was not done pursuant to a contract, be liable to the same tax as if engaged in the business of contracting, unless he shall show that at the time he was engaged in making the improvements it was, and for the period of at least one year after completion of the building, structure, or other improvements, it continued to be his purpose to hold and not sell or otherwise dispose of the land or improvements. The tax in respect of the improvements shall be measured by the amount of the proceeds of the sale or other disposition that is attributable to the erection, construction, or improvement of such building or structure, or the making, constructing, or improving of the road, street, sidewalk, sewer, or water system, or other improvements. The measure of tax in respect of the improvements shall not exceed the amount which would have been taxable had the work been performed by another, subject as in other cases to the deductions allowed by paragraph (3)(B). Upon the election of the taxpayer this paragraph may be applied notwithstanding the improvements were not made by the taxpayer, or were not made as or as a part of a business, or were made with the intention of holding the same. However, this paragraph shall not apply in respect of any proceeds that constitute or are in the nature of rent; all such gross income shall be taxable under paragraph (10).
- (4) Tax upon theaters, amusements, radio broadcasting stations, etc. Upon every person engaging or continuing within the State in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, radio broadcasting station, or any other place at which amusements are offered to the public, the tax shall be equal to four per cent of the gross income of the business.
- (5) Tax upon sales representatives, etc. Upon every person classified as a representative or purchasing agent under section 237-1, engaging or continuing within the State in the business of performing services for another, other than as an employee, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the commissions and other compensation attributable to the services so rendered by him.
- (6) Tax on service business. Upon every person engaging or continuing within the State in any service business or calling not otherwise specifically taxed under this chapter, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income of any such business; provided[, however,] that where any person engaging or continuing within the State in any service business or calling renders such services upon the order of or at the request of another taxpayer who is engaged in the service business and who, in fact, acts as or acts in the nature of an

intermediary between the person rendering such services and the ultimate recipient of the benefits of such services, so much of the gross income as is received by the person rendering the services shall be subjected to the tax at the rate of one-half of one per cent and all of the gross income received by the intermediary from the principal shall be subjected to a tax at the rate of four per cent[.]; and provided that where any person is engaged in the business of selling interstate or foreign common carrier telecommunication services within and without the State, the tax shall be imposed on that portion of gross income received by any such person from service which is originated or terminated in this State and is charged to a telephone number, customer, or account in this State notwithstanding any other state law (except for the exemption under section 237-23(a)(2)) to the contrary. If, under the Constitution and laws of the United States, the entire gross income as determined under this paragraph of a business selling interstate or foreign common carrier telecommunication services cannot be included in the measure of the tax, such gross income shall be apportioned as provided in section 237-21; provided that the apportionment factor and formula shall be the same for all persons providing such services in the State.

- (7) Tax on insurance solicitors and agents. Upon every person engaged as a licensed solicitor, general agent, or subagent pursuant to chapter 431, there is hereby levied and shall be assessed and collected a tax equal to .15 per cent of the commissions due to such activity.
- (8) Professions. Upon every person engaging or continuing within the State in the practice of a profession, including those expounding the religious doctrines of any church, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income on the practice or exposition.
- (9) Tax on receipts of sugar benefit payments. Upon the amounts received from the United States government by any producer of sugar (or his legal representative or heirs), as defined under and by virtue of the Sugar Act of 1948, as amended, or other acts of the Congress of the United States relating thereto, there is hereby levied a tax of one-half of one per cent of the gross amount received, provided that the tax levied hereunder on any amount so received and actually disbursed to another by such producer in the form of a benefit payment shall be paid by the person or persons to whom such amount is actually disbursed, and the producer actually making any such benefit payment to another shall be entitled to claim on his return a deduction from the gross amount taxable hereunder in the sum of the amount so disbursed. The amounts taxed under this paragraph shall not be taxable under any other paragraph, subsection, or section of this chapter.
- (10) Tax on other business. Upon every person engaging or continuing within the State in any business, trade, activity, occupation, or calling not included in the preceding paragraphs or any other provisions of this chapter, there is likewise hereby levied and shall be assessed and collected, a tax equal to four [percent] per cent of the gross income thereof. In addition, the rate prescribed by this paragraph shall apply to a business taxable under one or more of the

preceding paragraphs or other provisions of this chapter, as to any gross income thereof not taxed thereunder as gross income or gross proceeds of sales or by taxing an equivalent value of products, unless specifically exempted."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall take effect on July 1, 1986, provided that sixty days prior to that date, the department of taxation shall have determined the amount properly apportioned to the State under section 237-13(6), Hawaii Revised Statutes. If the department has not made such a determination, this Act shall take effect on the first day of the third month after the month in which the department has made such a determination; provided that no tax under chapter 237, Hawaii Revised Statutes, shall be imposed on the business of selling interstate common carrier telecommunication services for any period prior to the effective date of this Act.

(Approved June 9, 1986.)

ACT 325

H.B. NO. 2373-86

A Bill for an Act Relating to the Defense of Intoxication.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 702-200, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Where the defense provided in subsection (1) is based on a physical or mental disease, disorder, or defect which precludes or impairs a voluntary act or a voluntary omission, the defense shall be treated exclusively according to [the provisions of] chapter 704[.], except that a defense based on intoxication which is pathological or not self-induced which precludes or impairs a voluntary act or a voluntary omission shall be treated exclusively according to this chapter."

SECTION 2. Section 702-230, Hawaii Revised Statutes, is amended to read as follows:

"§702-230 Intoxication. (1) Self-induced intoxication is prohibited as a defense to any offense, except as specifically provided in this section.

[(1)] (2) Evidence of the non-self induced or pathological intoxication of the defendant shall be admissible to prove or negative the conduct alleged or the state of mind sufficient to establish an element of the offense. Evidence of self-induced intoxication of the defendant is admissible to prove or negative conduct or to prove state of mind sufficient to establish an element of an offense. Evidence of self-induced intoxication of the defendant is not admissible to negative the state of mind sufficient to establish an element of the offense.

[(2)] (3) Intoxication does not, in itself, constitute a physical or mental disease, disorder, or defect within the meaning of section 704-400.

[(3)] (4) Intoxication which (a) is not self-induced or (b) is pathological is a defense if by reason of such intoxication the defendant at the time of his conduct lacks substantial capacity either to appreciate its wrongfulness or to conform his conduct to the requirements of law.

[(4)] (5) In this section:

- (a) "Intoxication" means a disturbance of mental or physical capacities resulting from the introduction of substances into the body;
- (b) "Self-induced intoxication" means intoxication caused by substances which the defendant knowingly introduces into his body, the tendency of which to cause intoxication he knows or ought to know, unless he introduces them pursuant to medical advice or under such circumstances as would afford a defense to a charge of a penal offense;
- (c) "Pathological intoxication" means intoxication grossly excessive in degree, given the amount of the intoxicant, to which the defendant does not know he is susceptible and which results from a physical abnormality of the defendant."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 9, 1986.)

ACT 326

H.B. NO. 2427-86

A Bill for an Act Relating to the Department of Transportation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act shall relate only to exempt employees transferred by the legislature, under Act 179, S.L.H. 1975, to the Department of Transportation and currently employed in the Statewide Transportation Planning Office of the Department of Transportation.

SECTION 2. Any permanent employee currently not in civil service who furnishes staff support to the Statewide Transportation Council shall be converted to permanent civil service status within the meaning of chapters 76 and 77 without the necessity of examination and shall be accorded all the rights, benefits, and privileges attributable thereto. Such rights and privileges shall include seniority, prior service credit, vacation and sick leave credits, and other benefits and privileges accorded employees with civil service status. Employees so converted shall not suffer a reduction in their pay rate.

SECTION 3. This Act shall take effect on July 1, 1986.

(Approved June 9, 1986.)

ACT 327

H.B. NO. 2479-86

A Bill for an Act Relating to Notaries Public.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 456-3, Hawaii Revised Statutes, is amended to read as follows:

"§456-3 Seal. Every notary public shall constantly keep [a] an engraved seal of office or a rubber stamp facsimile seal [of office, whereon shall be engraved] which shall clearly show, when embossed, stamped or impressed upon

a document, [his] the notary's name, and the words, "notary public" and "State of Hawaii." [He] The notary public shall authenticate all¹ [his] the notary's official acts, attestations, certificates, and instruments therewith, and shall always add to [his] an official signature a statement showing the date [of expiration of his commission as notary public] that the notary's commission expires. Upon resignation, death, expiration of term of office without reappointment, or removal from or abandonment of office [he] the notary public shall immediately deliver [his] the notary's seal to the attorney general who shall deface or destroy the same. If any notary fails to comply with this section within ninety days of the date of the notary's resignation, expiration of term of office without reappointment, or removal from or abandonment of office or if the notary's personal representative fails to comply with this section within ninety days of the notary's death, then the notary public or [his] the notary's personal representative shall forfeit to the State not more than \$200, in the discretion of the court, to be recovered in an action to be brought by the attorney general on behalf of the State."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1986.)

Note

1. Prior to amendment "of" appeared here.

ACT 328

H.B. NO. 2506-86

A Bill for an Act Relating to Developmentally Disabled.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 321-11, Hawaii Revised Statutes, is amended to read as follows:

"§321-11 Subjects of health regulations, generally. The department of health may make such regulations as it deems necessary for the public health and safety respecting:

- (1) Nuisances, foul or noxious odors, gases, vapors, waters in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease, within the respective districts of the State, and on board any vessel;
- (2) Adulteration and misbranding of food or drugs;
- (3) Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, watercourses, areas, and alleys;
- (4) Privy vaults and cesspools;
- (5) Fish and fishing;
- (6) Interments and dead bodies;
- (7) Disinterments of dead human bodies, including the exposing, disturbing, or removing of such bodies from their place of burial, or the opening, removing, or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead

- human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
- (8) Cemeteries and burying grounds;
- (9) Laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where foods or beverages are canned or bottled for public consumption or sale; provided that nothing in this chapter shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where the laundering or sterilization is done in an efficient and sanitary manner;
- (10) [[Text of paragraph effective July 1, 1986.]] Hospitals, freestanding surgical outpatient facilities, skilled nursing facilities, intermediate care facilities, adult residential care homes, adult foster care homes, special treatment facilities and programs, home health agencies, but excluding youth shelter facilities unless clinical treatment of mental, emotional or physical disease or handicap is a part of the routine program or constitutes the main purpose of the facility, as defined in section 346-16 under "child care institution"[.]. For the purpose of this paragraph, "adult foster care home" means a private home providing care on a twenty-four hour basis for not more than two developmentally disabled adults at any point in time who are unrelated to the foster family;
- (11) Hotels, rooming houses, lodging houses, apartment houses, tenements, and residences for persons with developmental disabilities including, but not limited to, those built under federal funding;
- (12) Laboratories;
- (13) Any place or building where noisome or noxious trades or manufactures are carried on, or intended to be carried on;
- (14) Milk;
- (15) Poisons and hazardous substances, the latter term including, but not limited to, any substance or mixture of substances which (A) is corrosive, (B) is an irritant, (C) is a strong sensitizer, (D) is inflammable, or (E) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;
- (16) Pig and duck ranches;
- (17) Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;
- (18) Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use;

- (19) Foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;
- (20) Devices as defined in section 328-1;
- (21) Sources of ionizing radiation;
- (22) Medical examination, vaccination, revaccination, and immunization of school children. No child shall be subjected to such medical examination, vaccination, revaccination, or immunization, whose parent or guardian shall in writing object thereto on grounds that such requirements are not in accordance with the religious tenets of an established church of which he is a member or adherent, but no such objection shall be recognized when, in the opinion of the department there is danger of an epidemic from any communicable disease;
- (23) Disinsectization of aircraft entering or within the State as may be necessary to prevent the introduction, transmission, or spread of disease or the introduction or spread of any insect or other vector of significance to health;
- (24) Fumigation. The process by which substances emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents, or other pests, which, in the opinion of the department may be lethal, poisonous, noxious, or dangerous to human life; and
- (25) Ambulances and ambulance equipment.

The department may require such certificates, permits, or licenses as it may deem necessary adequately to regulate the conditions or businesses referred to in this section."

SECTION 2. A child foster boarding home approved by the department of social services and housing under section 346-17, Hawaii Revised Statutes, which provides foster care to a developmentally disabled child beyond the eighteenth birthday through June 30, 1987, shall be authorized to operate as an adult foster care home upon application to the department of health.

SECTION 3. The rules of the department of social services and housing adopted under authority of section 346-17, Hawaii Revised Statutes, which prescribe the standards of conditions and competence of operation of child foster boarding homes shall apply to adult foster care homes until June 30, 1987. Notwithstanding chapter 91, Hawaii Revised Statutes, to the contrary, the rules shall be considered adopted by the department of health on the effective date of this Act for the purpose of regulating adult foster care homes and shall be valid until June 30, 1987.

SECTION 4. The department of health shall conduct a study of the problem of the displacement from child foster boarding homes of developmentally disabled persons who reach eighteen years of age. The study shall be for the purpose of determining the scope of the problem, alternative solutions to the problem, adequacy of current public assistance payments for developmentally disabled adults cared for in adult foster care homes, and necessary legislation and administrative rules to effectuate the regulation of adult foster care homes as provided under section 321-11(10), Hawaii Revised Statutes. In the conduct of the study, the department of health shall consult with the department of social services and housing and state planning council on developmental disabilities. The department of health shall submit a report of the findings and

recommendations of the study and proposed legislation to the legislature prior to the convening of the Regular Session of 1987.

SECTION 5. For the purposes of sections 2, 3, 4, and 6, "adult foster care home" means the same as defined under section 321-11(10), Hawaii Revised Statutes.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$24,000, or so much thereof as may be necessary for fiscal year 1986-1987, to regulate adult foster care homes and conduct the study required under section 4. The sum appropriated shall be expended by the department of health for the purposes of this section.

SECTION 7. Rate of payment for adult foster care is to be determined on the same basis as domiciliary care homes as provided under section 346-53, Hawaii Revised Statutes, for the period July 1, 1986 through June 30, 1987.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 1986.

(Approved June 9, 1986.)

ACT 329

H.B. NO. 2605-86

A Bill for an Act Relating to Boating Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 267-6, Hawaii Revised Statutes, is amended to read as follows:

"§267-6 Enforcement. (a) The director of transportation may enter into a contract with corporations authorized to engage in business in the State to aid in enforcing this chapter and all rules and regulations adopted pursuant to this chapter in specified areas; provided that the corporations agree to undertake this activity at no expense to the State and to hold the State harmless in respect to all injuries, losses, or damages arising from, growing out of, or caused by any acts or omissions of the corporations, their officers, agents, or employees in connection with the contract. The director of transportation may appoint no more than ten officers and employees of the corporations to serve as boating enforcement officers to enforce this chapter. The director of transportation, officers, and employees of the department of transportation, boating enforcement officers and volunteer enforcement officers appointed by the director under this section, and every state and county officer charged with the enforcement of state laws shall enforce and assist in the enforcement of this chapter and of all rules adopted pursuant to this chapter.

(b) For the purpose of enforcement, the powers of police officers are conferred upon the director, other officers and employees of the department designated by the director, and boating enforcement officers and volunteer enforcement officers appointed by the director; and the powers herein conferred shall, without limiting their generality, include the power to be exercised reasonably with respect to the service and execution of warrants, arresting of offenders, service of notices and order, and the stopping, boarding, investigation, and inspection of vessels.

(c) The director may appoint and commission volunteers as enforcement officers for the purpose of assisting officers, employees, and representatives of the department; provided that the powers and authority of a police officer conferred upon volunteer enforcement officers shall be in force and effect only while in actual performance of their duties; and provided that the volunteer enforcement officers shall not bear firearms.

(d) Nothing herein shall preclude enforcement of state or federal laws and requirements pursuant to agreements or other arrangements entered into between the director and appropriate officers and agencies of the United States and other states to ensure the fullest possible cooperation in promoting and attaining the declared policy of section 267-1."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1986.)

ACT 330

H.B. NO. 2695-86

A Bill for an Act Relating to Certain Foreign Goods Sold in Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that certain products made abroad are sold in Hawaii as "made in Hawaii" look-alikes, with no clear indication that the products are imitations manufactured abroad. In cases where foreign goods are marketed as "made in Hawaii" imitations, sales of genuine articles made in Hawaii suffer as a consequence. For this reason, the legislature wishes to insure that consumers are made aware of where products such as handicrafts, clothing, and souvenirs are actually manufactured.

The purpose of this Act is to insure that consumers are not deceived as to whether or not products are "made in Hawaii."

SECTION 2. Chapter 486, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§486- Hawaii-made products. No person shall keep, offer, display, or expose for sale, or solicit for the sale of any item, product, souvenir, or any other merchandise which is labeled "made in Hawaii" or which by any other means misrepresents the origin of the item as being from any place within the State, which has not been manufactured, assembled, or fabricated within the State and which has not had at least twenty-five per cent of its wholesale value added by manufacture, assembly, or fabrication within the State."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 9, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 331

H.B. NO. 2844-86

A Bill for an Act Relating to Escrow Depositories.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 449-1, Hawaii Revised Statutes, is amended to read as follows:

“§449-1 Definitions. As used in this chapter:

[(1)] “Commissioner” means the commissioner of financial institutions of this State.

[(2)] “Person” means, in addition to the singular, persons, group of persons, cooperative association, company, firm, partnership, corporation, or other legal entity, and includes the agents and employees of any person.

[(3)] “Escrow” means any transaction affecting the title to real property, including leaseholds, proprietary leaseholds, and condominiums, in which a person not a party to the transaction and neither having nor acquiring any interest in the title receives from one party to the transaction, holds until the happening of an event or performance of a condition and then delivers to another party to the transaction, any money or other consideration or any instrument affecting the title to that real property, all in accordance with the terms of the agreement between the parties to the transaction.

“Escrow Account” means any escrow depository account with a financial institution to which cash or items are deposited with respect to any escrow.

[(4)] “Escrow depository” means the person who, in an escrow, and for compensation, receives, holds, and delivers the money, other consideration, or instrument affecting title to real property.

“Financial Institution” means any bank, savings and loan association, finance company or credit union doing business in the State whose accounts are insured by either the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Share Insurance Fund or other similar or successor program of federal insurance.

“Item” means any check (including a cashier’s or certified check), negotiable order of withdrawal, draft, traveler’s check, or money order.”

SECTION 2. Section 449-4, Hawaii Revised Statutes, is amended to read as follows:

“§449-4 Penalty. Any person who violates any provision of this chapter shall be fined not more than \$5,000 or imprisoned not more than six months, or both. No licensee shall be subject to this penalty for a violation of subsections 449-16(b) or (c) if the violation was not intentional or resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid that error. Examples of bona fide errors include, but are not limited to, clerical miscalculations, computer malfunction, printing errors and computer programming errors.”

SECTION 3. Section 449-16, Hawaii Revised Statutes, is amended to read as follows:

“§449-16 Accounting for moneys, property, etc. (a) Every licensee under this chapter shall have the responsibility of a trustee for all moneys, other consideration, or instruments received by it. No licensee shall mingle any such moneys or other property with its own moneys or other property, or with moneys or other property held by it in any other capacity. All moneys held by a licensee in escrow as herein defined shall be held intact and deposited in [insured Hawaii banks,] financial institutions, payable on demand[; provided, that the commissioner may, by adopting appropriate rules and regulations, permit deposits in other insured Hawaii depositories].

(b) No licensee shall disburse funds from an escrow account until cash and or items sufficient to fund any disbursements from the account have been

received and deposited to the account, and with respect to such items the licensee complies with the provisions of either paragraphs (1) or (2) hereof.

(1) Where an item has been received and submitted for collection, no licensee shall disburse funds from an escrow account with respect to the item until final settlement of the item has been received by the financial institution to which the item has been submitted for collection.

(2) No licensee shall disburse funds from the escrow account with respect to an item drawn on a financial institution until the licensee confirms that sufficient collected funds are on deposit in the drawer's account.

(c) A licensee may deliver any money, consideration, or instrument affecting the title to real property prior to funds becoming available for disbursement under subsection (b) if it has received the written consent of the parties to the transaction."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 9, 1986.)

ACT 332

S.B. NO. 1843-86

A Bill for an Act Relating to Child Support.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act:

- (1) Establishes procedures which will bring the State into compliance with federal statutory and regulatory requirements established under the authority of Title IV, part D of the Social Security Act as amended by the Child Support Amendments of 1984 (P.L. 98-378). The Act will assure that assistance in obtaining support will be available to all children for whom such assistance is requested, by substantially increasing the effectiveness of the state child support enforcement program.
- (2) Establishes a special court trustee to assist any parent, guardian, or custodian materially affected by a court order or decree in approaching the court to modify any provision of the order or decree pertaining to support payments or to enforce visitation rights.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER CHILD SUPPORT ENFORCEMENT

§ -1 **Definitions.** For the purpose of this chapter:

"Absent parent" means a parent who is absent from the family, whether or not the parent is a debtor parent.

"Agency" means the child support enforcement agency established under section -2.

"Child support" means payment for the necessary support and maintenance of a child as required by law.

"Custodial parent" means a parent, guardian, or other person having custody of the child.

"Debtor parent" means any person who is delinquent in payment of court-ordered child support payments or who owes a public assistance debt.

"Department" means the department of social services and housing until June 30, 1987 and the department of attorney general from July 1, 1987, unless otherwise specified.

"Obligor" means an absent parent obligated by court order to pay child support.

"Public assistance debt" means a debt owing to the department of social services and housing under section 346-37.1.

"Title IV-A", "Title IV-D", and "Title IV-E" mean Title IV-A, Title IV-D, and Title IV-E, respectively, of the federal Social Security Act (August 14, 1935, chapter 531, 49 Stat. 620), as amended.

§ -2 Designation of child support enforcement agency; duties. There is created the child support enforcement agency for the State as required under Title IV-D. Until June 30, 1987, the agency shall be within the department of social services and housing. From July 1, 1987, the agency shall be within the department of the attorney general. The child support enforcement agency shall:

- (1) Be responsible for formulating the state child support enforcement plan as required under Title IV-D; and
- (2) Administer this chapter consistent with Title IV-D and applicable state laws.

§ -3 Obtaining or enforcing child support. (a) The agency shall undertake any legal or administrative action to secure support for a child by enforcing an existing court order or obtaining a court order of support.

(b) In order to carry out its responsibilities imposed under this chapter, the agency, through the offices of the corporation counsel or the county attorneys, may commence or appear in any proceeding before any court or administrative agency for the purpose of establishing paternity for children born out of wedlock or for the purpose of obtaining, enforcing, or modifying an order of support on behalf of any dependent or any other person for whom the agency has a duty to obtain or enforce an order of support under this chapter. The agency may commence or appear in any action on its own behalf, on behalf of any dependent child or custodial parent, or on behalf of any other person for whom the agency has a duty to obtain or enforce an order of support under this chapter. The agency shall obtain or enforce a child support order for the following children:

- (1) A child on whose behalf public assistance payments have been or are being made;
- (2) A child on whose behalf foster care payments have been or are being made under Title IV-E; or
- (3) A child on whose behalf a custodial parent, guardian, or other person having custody applies to the agency for assistance in obtaining or enforcing a child support order, whether or not public assistance payments have been made on the child's behalf.

§ -4 Establishment of paternity. When necessary to obtain child support for a child under section -3, the agency shall take any legal or administrative action to establish the paternity of the child. The agency shall undertake the action on behalf of the State, child, custodial parent of the child, or any other person for whom the agency has a duty to obtain or enforce a child support order.

§ -5 **Fee for obtaining or enforcing nonpublic assistance order.** The agency shall require the payment of a reasonable fee on the application of a person under section -3(b)(3) who is not receiving public assistance for support of the child for assistance in obtaining or enforcing a child support order. The payment and amount of the fee shall be in compliance with applicable federal regulations promulgated under Title IV-D.

§ -6 **Other duties of agency.** The agency shall:

- (1) Establish a state parent locator service;
- (2) Cooperate with other states in:
 - (A) Establishing paternity, if necessary;
 - (B) Locating an absent parent who is present in the State and against whom any action is being taken under a Title IV-D program in any other state; and
 - (C) Securing compliance by such an absent parent with a support order issued by a court of competent jurisdiction in another state.
- (3) Perform periodic checks of whether a debtor parent is collecting unemployment compensation and, if so, to arrange, either through agreement with the debtor parent or by bringing legal process, to have a portion of the compensation withheld, to fulfill the parent's delinquent child support obligations;
- (4) Notify annually each custodial parent, guardian, protective payee, or other person having custody of the child of an Aid to Families with Dependent Children family of the amount of child support collected on behalf of the child in the family. For the purpose of this section, "Aid to Families with Dependent Children family" means a family which receives financial assistance under the federal Aid to Families with Dependent Children program;
- (5) Establish and utilize procedures which shall require a debtor parent to give security, post bond, or give some other guarantee to secure payment of delinquent child support. The procedures shall apply to all debtor parents of children described under section -3. The procedures shall include advance notice to the debtor parent in full compliance with the State's procedural due process requirements. The agency shall develop guidelines, which are available to the public, to determine whether the case is inappropriate for application of this requirement.
- (6) Establish and utilize procedures by which information regarding the amount of delinquent child support owed by a debtor parent residing in the State will be made available to any consumer reporting agency. The procedures shall be effectuated after the delinquency reaches \$1,000, shall be in compliance with the limitations under Title IV-D, and shall include provisions on advance notice to the debtor parent of the procedures, which shall be in full compliance with the State's procedural due process requirements, to contest the accuracy of the information;
- (7) Establish and utilize procedures which will impose liens against the real and personal property of a debtor parent who owes overdue support and who resides or owns property in the State. The agency shall further establish guidelines which are available to the public to determine whether the case is inappropriate for application of this paragraph;

- (8) Establish and utilize procedures for the notification of a custodial parent that any income tax refund setoff under section 231-53 shall be credited to child support debts for past public assistance or foster care maintenance before any other debt;
- (9) Establish and utilize procedures for prompt reimbursements of overpayments of child support debts from income tax refund setoffs under section 231-53. The procedures shall provide for the reimbursements to be made by the custodial parent or agency; and
- (10) Perform other duties required under Title IV-D.

(b) The procedures required under paragraphs (5), (6), (7), (8), and (9) shall be established by rule in accordance with chapter 91.

§ -7 Guidelines in establishing amount of child support. (a) The family court, in consultation with the agency, shall establish guidelines to establish the amount of child support when an order for support is sought or being enforced under this chapter. The guidelines shall be based on specific descriptive and numeric criteria and result in a computation of the support obligation.

The guidelines may include consideration of the following:

- (1) All earnings, income, and resources of both parents;
- (2) The earning potential, reasonable necessities, and borrowing capacity of both parents;
- (3) The needs of the child for whom support is sought;
- (4) The amount of public assistance which would be paid for the child under the full standard of need as established by the department; and
- (5) The existence of other dependents of the obligor parent.

(b) The guidelines shall be:

- (1) Applied statewide;
- (2) Applied to ensure, at a minimum, that the child for whom support is sought benefits from the income and resources of the obligor parent on an equitable basis in comparison with any other minor child of the obligor parent;
- (3) Established by October 1, 1986; and
- (4) Transmitted to the agency and all family court judges when available or updated, and shall be considered by the judges in the establishment of each child support order.

(c) The family court, in consultation with the agency, may update the guidelines when the family court deems it necessary.

§ -8 Moneys collected for public assistance debt; transmittal to department of social services and housing. The moneys collected by the agency on behalf of the department of social services and housing for public assistance debt shall be transmitted to the department of social services and housing. The department of social services and housing shall transmit to the federal government that portion of the money required to be transmitted under Title IV-D. The remaining portion of the moneys collected, with the exception of incentive payments or other monetary performance awards to which the State is entitled under Title IV-D, shall be retained by the department of social services and housing to offset Title IV-A public assistance payments.

§ -9 Incentive payments to State and political subdivision. If one or more political subdivisions of the State participate in the costs of carrying out the child support enforcement activities during any particular period, each such subdivision shall be entitled to receive an appropriate share of any federal incentive payments made to the State for such period. The exact amount of the

share shall be determined by taking into account the efficiency and effectiveness of the activities carried out by the political subdivisions, and measured by a standard methodology which shall be developed by the agency, for passing through an appropriate share of its incentive payment to participating political subdivisions.

§ -10 **Collection and disbursal of child support.** (a) The agency shall collect and disburse child support payments when a court order requires the collection and disbursal.

(b) Any child support payments required by a court order effective on June 30, 1986 to be made to a court or clerk of the court and disbursed to a custodial parent shall be made to the agency after June 30, 1986. The agency shall disburse the payments as appropriate under the court order.

§ -11 **Staff.** The head of the appropriate department shall appoint, pursuant to chapters 76 and 77, an administrator and such other personnel as may be required to discharge the functions of the child support enforcement agency. The head of the appropriate department shall commission child support enforcement investigators who shall have and may exercise all the powers and authority of a police officer or a deputy sheriff to fulfill their official responsibilities, provided that persons so appointed and commissioned shall not carry firearms. The duties of the commissioned investigators shall be to locate absent parents, to establish paternity, and to obtain and enforce court orders of support. The child support enforcement investigators shall have access to the records of any agency, board, commission, authority, court, or committee of the State or its political subdivisions notwithstanding any provisions for confidentiality."

SECTION 3. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"§231-57.5 Notification of address and social security number of debtor parent. The department of accounting and general services shall notify the child support enforcement agency of the address and social security number of each debtor who has been subject to a setoff because of a child support debt."

SECTION 4. Chapter 571, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§571- Guidelines to determine child support amounts. When the court establishes or modifies the amount of child support required to be paid by a parent, the court shall use the guidelines established under section -7, except when exceptional circumstances warrant departure.

§571- Child support order, judgment, or decree; accident and sickness insurance coverage. Each order, judgment, or decree under this chapter or chapter 576, 580, or 584 ordering a person to pay child support shall include a provision concerning the liability of that person for accident and sickness insurance coverage when available at reasonable cost."

SECTION 5. Section 231-52, Hawaii Revised Statutes, is amended by amending the definition of "claimant agency" to read as follows:

"**"Claimant agency"** includes any state agency, board, commission, department, institution, or other state organization, or any subdivision thereof. In the case of delinquent child support, "claimant agency" means the [department of social services and housing] child support enforcement agency or an agency under cooperative agreement with the department[,] whenever the

department is required by law to enforce a support order on behalf of an individual.”

SECTION 6. Section 346-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department of social services and housing and its agents shall keep such records as may be necessary or proper in accordance with this chapter. All applications and records concerning any applicant or recipient shall be confidential. The use or disclosure of information concerning applicants and recipients shall be limited to:

- (1) Persons duly authorized by the State or the United States in connection with their official duties, when the official duties are directly connected with the administration of any form of public assistance, medical assistance, food stamps, or social services; [or]
- (2) Purposes directly connected with any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any and all forms of public assistance, food stamps, medical assistance, or social services, including but not limited to disclosure by the department of information and documents to police departments, prosecutors’ offices, the attorney general’s office, or any other state, county, or federal agency engaged in the detection, investigation, or prosecution of violations of applicable state, county, and federal laws or regulations regarding any and all aspects of theft, fraud, deception, or overpayment in connection with any aspect of public assistance, food stamps, medical assistance, or social services; provided that disclosure by recipient agencies and personnel is permitted under this section to the extent reasonably necessary to carry out the functions for which the information was provided;
- (3) Disclosure to the extent necessary to provide services for applicants and recipients, to determine eligibility, or to determine the amount of public assistance, such determination to include but not be limited to verification of information provided by the recipient of public assistance, medical assistance, or food stamps, or to determine the type, kind, frequency, and amount of social services, including health and mental health related services[,] needed;
- (4) Disclosure to banks, financial institutions, or any other payor of a public assistance warrant or check of any and all information indicating that a public assistance warrant or check honored by the bank, institution, or payor has been forged or otherwise wrongfully presented for payment;
- (5) Federal agencies responsible for the administration of federally assisted programs, which provide assistance, in cash or in kind, for services, directly to individuals on the basis of need; and certification of receipt of aid to families with dependent children to an employer for purposes of claiming tax credit under Public Law 94-12, the Tax Reduction Act of 1975, shall be permitted;
- (6) Employees acting within the scope and course of their employment of such recognized social welfare organizations as may be approved by the department; [and]
- (7) [[Text of paragraph effective July 1, 1986.]] Purposes directly connected with any investigation, prosecution, or criminal proceeding conducted in connection with the licensure or operation of an

adult day care center, including but not limited to disclosure by the department of information and documents to police departments, prosecutors' offices, the attorney general's office, or any other state, county, or federal agency engaged in the detection, investigation, or prosecution of violations of applicable state, county, and federal laws or regulations[.]; and

- (8) Disclosure to the child support enforcement agency for obtaining or enforcing a child support order under chapter .”

SECTION 7. Section 346-37.1, Hawaii Revised Statutes, is amended to read as follows:

“§346-37.1 Payment of public assistance for child constitutes debt to department by natural or adoptive parents. (a) Any payment of public assistance money made to or for the benefit of any dependent child or children creates a debt due and owing to the department by the natural or adoptive parent or parents who are responsible for support of such children in an amount equal to the amount of public assistance money so paid or as established pursuant to subsection (b), except that debts under this section shall not be incurred by nor at any time be collected from a parent or other person who is the recipient of public assistance moneys for the benefit of minor dependent children for the period such person or persons are in such status, and, provided that where there has been a family court order, the debt shall be limited to the amount provided for by the order.

(b) If there is no existing court order, the debt may be established by agreement of the parties or by order of the family court wherein the following criteria shall be considered:

- (1) All earnings, income, and resources of the absent parent or parents including real or¹ personal property;
- (2) The earnings potential, reasonable necessities, and borrowing ability of the absent parent or parents;
- (3) The needs of the child for whom the support is sought;
- (4) The amount of assistance which would be paid to the child under the full standard of need as established by the department; and
- (5) The existence of other dependents.

These criteria shall be applied so as to ensure, at a minimum, that the child for whom support is sought benefits from the income and resources of the absent parent or parents on an equitable basis in comparison with any other minor child of the absent parent.”

SECTION 8. Section 346-37.2, Hawaii Revised Statutes, is amended to read as follows:

“[[]§346-37.2[]] Department subrogated to rights. The department shall be subrogated to the right of [said] such child or children or person having the care, custody, and control of [said] such child or children to [prosecute or maintain any support action or execute any administrative remedy existing under the laws of the State to obtain reimbursement of moneys thus expended. If a family court order enters judgment for an amount of support to be paid by an obligor parent, the department shall be subrogated to] the debt created [by such order, and said money judgment shall be deemed to be in favor of the department.] under section 346-37.1. Any judicial or administrative action to collect the debt for the department shall be undertaken by the child support enforcement agency under chapter .”

SECTION 9. Section 346-37.3, Hawaii Revised Statutes, is amended to read as follows:

“[[§346-37.3[]] Notice of child support debt. The department [may issue a notice of] shall notify the child support enforcement agency of each support debt accrued or accruing based upon payment of public assistance to or for the benefit of any dependent child or children. [Said notice of debt shall be served upon the debtor in the manner prescribed for the service of summons in a civil action including summons by publication where appropriate and necessary.]”

SECTION 10. Section 383-163.5, Hawaii Revised Statutes, is amended as follows:

1. Subsections (a), (b), (c), and (d) are amended to read:

“(a) An individual filing a new claim for unemployment compensation, at the time of filing such claim, shall disclose whether or not that individual owes child support obligations as defined under subsection (g). If any individual owes child support obligations and is determined to be eligible for unemployment compensation, the department shall notify the [state or local] child support enforcement agency [enforcing the obligation] that the individual has been determined to be eligible for unemployment compensation.

(b) The department shall deduct and withhold, from any unemployment compensation payable to an individual who owes child support obligations, one of the following:

- (1) The amount specified by the individual to the department to be deducted and withheld under this subsection, if neither paragraph (2) nor (3) is applicable;
- (2) The amount, if any, determined pursuant to an agreement submitted to the department under section 454(20)(B)(i) of the Social Security Act by the [state or local] child support enforcement agency, unless paragraph (3) is applicable; or
- (3) Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in section 462(e) of the Social Security Act, properly served upon the department.

(c) Any amount deducted and withheld under subsection (b) shall be paid by the department to the [appropriate state or local] child support enforcement agency.

(d) Any amount deducted and withheld under subsection (b) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the [state or local] child support enforcement agency in satisfaction of the individual's child support obligations.”

2. Subsection (f) is amended to read:

“(f) This section applies only if appropriate arrangements have been made for reimbursement by the [state or local] child support enforcement agency for the administrative costs incurred by the department under this section.”

3. Subsection (h) is amended to read:

“(h) As used in this section, the term “[state or local] child support enforcement agency” means [any] the agency [of a state or a political subdivision thereof operating pursuant to a plan described in subsection (g).] established under chapter .”

SECTION 11. Section 571-52, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Whenever any person has been ordered to pay an allowance for the support, maintenance, or education of a child, or for the support and maintenance of a spouse or former spouse, and fails or refuses to obey or perform the order, and has been adjudged guilty of contempt of court for such failure or refusal, the court may make an order which shall operate as an assignment by the person [to the clerk of the court where the order is entered,] for the benefit of the child or spouse, of such amounts at such times as may be specified in the order, from the salary, wages, or other income due or to become due in the future to such person from the person’s employer or successor employers, until further order of the court. The assignment of the amounts shall be to the clerk of the court where the order is entered if for the support or maintenance of a spouse or former spouse, or to the child support enforcement agency if for the support, maintenance, or education of a child or if child support and spouse support are contained in the same order. The order of assignment shall be effective immediately after service upon an employer of a true copy of the order, which service may be effected by certified or registered mail or by personal delivery. Thereafter, the employer shall for each pay period withhold from the salary, wages, or other income due to the person from the employer, and not required to be withheld by any other provision of federal or state law, and transmit to the clerk of the court or child support enforcement agency as set forth in the order, as much as may remain payable to the person for such pay period up to the amount specified in the order of assignment as being payable during the same period. The person ordered to pay shall inform the court immediately of any change which would affect the order of assignment or the disbursement thereof. Compliance by an employer with the order of assignment shall operate as a discharge of the employer’s liability to the employee for that portion of the employee’s earnings withheld and transmitted to the clerk of court[,] or child support enforcement agency, as the case may be, whether or not the employer has withheld the correct amount. The term “employer” as used in this section includes the United States government, the State, and any political subdivision thereof.

(b) Notwithstanding the provisions of subsection (a), whenever a court has ordered any person (hereinafter “obligor”) to make periodic payments toward the support of a child and, upon petition of the person to whom such payments are ordered to be made, or that person’s assignee, the court finds the obligor to be delinquent in payments in an amount equal to or greater than the sum of payments which would become due over a one-month period under the order, judgment, or decree providing for child support, the court [may] shall order an assignment of future earnings or income, or a portion thereof, of the obligor in an amount adequate to insure that past due payments and payments which will become due in the future under the terms of the support order will be paid. Such an order shall operate as an assignment by the obligor to the [clerk of the court where the order is entered,] child support enforcement agency and shall be binding upon any person who is or shall become obligated to the obligor for payment of earnings or income and who has been served with a certified copy of the assignment order. For each payment made pursuant to an assignment order, the person making such payment may deduct and retain as an administrative fee the additional amount of \$2 from the earnings or income owed to the obligor. Any assignment made pursuant to an assignment order shall have priority as against any garnishment, attachment, execution, or other assignment order, or any other order unless otherwise ordered by the court and

the same shall not be subject to any of the exemptions or restrictions contained in part III of chapter 651, and chapters 652 and 653.

For purposes of this subsection, delinquencies in payments shall be computed on the basis of the moneys owed and unpaid on the date that the obligor under the support order has been given notice pursuant to law of the application for the order of assignment, and the fact that the obligor may have subsequently paid such delinquencies shall not relieve the court of its duty under this subsection to order the assignment."

SECTION 12. Section 571-52.1, Hawaii Revised Statutes, is amended to read as follows:

"§571-52.1 Determination and enforcement of support orders. During the course of any proceeding in which the court is considering making or modifying an order for spouse support or child support, the court on its own motion or on motion of any interested person may refer the problem to the court trustee for investigation.

At any time when a support order payable through the court for spouse support or through the child support enforcement agency for child support or child and spouse support appears or is alleged to be inequitable or unsuitable, the court trustee on his own motion may, and when directed by the court shall, institute an investigation into the situation.

In connection with any such referral or inquiry, the court trustee shall investigate all matters pertinent to the determination of just and suitable allowances for the spouse and children, and shall submit his findings and recommendations in writing to the court. Recommendations of amounts of child support shall be consistent with the guidelines established under section -7, except when exceptional circumstances warrant departure.

The written reports of the court trustee shall be available to interested parties and may be received in evidence if no objection is made, or, if objection is made, may be received in evidence; provided the person or persons responsible for the reports are available for cross-examination as to any matter which has been investigated. When a report is received in evidence, any party may introduce other evidence supplementing, supporting, modifying, or rebutting the whole or any part of the report.

Every order for spouse support or child support or child and spouse support which provides for payments to be made through the court or child support enforcement agency may be enforced pursuant to this section.

The court trustee shall maintain files of the support orders and papers referred to him, shall maintain follow-up records to determine whether the payments ordered therein are being made, may make oral or written demand for overdue payments, and, in the event of a default and after such time as the court trustee may deem reasonable, may, and when directed by the court shall, institute contempt of court proceedings for the purpose of enforcing support orders.

The court trustee may utilize the services of public or private social agencies in conducting the investigations and making the reports and recommendations occasioned by this section. Reports of such agencies may be received in evidence under the same conditions as reports of the court trustee.

Court costs, service fees, and the expenses of any investigation conducted by the court trustee may, in the discretion of the court, be assessed wholly or partially against the party ordered to make the support payments.

As used in this section, support includes amounts ordered to be paid as reimbursement or advancement for expenses incurred or to be incurred by or on

behalf of a spouse or child, including attorney's fees, court costs, and other expenses in connection with relevant litigation, unpaid amounts due under existing or prior support orders, and payments required by a valid sentence, order, judgment, or decree under chapters 575, 576, 580, and 584 or section 571-51."

SECTION 13. Section 571-52.2, Hawaii Revised Statutes, is amended to read as follows:

"§571-52.2 Automatic assignment by court order of future wages for payment of child support. (a) Notwithstanding [the provisions of] section 571-52, the court [may] shall order an assignment of future earnings or income when:

- (1) The court has ordered any person (hereinafter the "obligor") to make periodic payments toward the support of a child pursuant to a court order, judgment, or decree; [and]
- (2) The court order, judgment, or decree provides for an automatic assignment of the obligor's wages upon the obligor's failure to timely pay any child support that the obligor is required to pay through the [clerk of the court;] child enforcement support agency or directly to the obligee; and
- (3) The [court or clerk of the court] child support enforcement agency finds the obligor to be delinquent in payments in an amount equal to or greater than the sum of payments which would become due over a one month period under the order, judgment, or decree providing for child support[.] and notifies the court.

The order shall take effect without necessity of further action of the court or application of the custodial parent or child support enforcement agency, except when a hearing is requested under subsection (c).

(b) The court, on its own motion, may order an assignment of future earnings or income, or a portion thereof, of the obligor in an amount adequate to insure that past due payments and payments which will become due in the future under the terms of the support order will be paid.

(c) The court or the clerk of the court shall provide the obligor written notice at least fourteen days in advance of entering an automatic wage assignment and inform the obligor the automatic wage assignment will issue on a certain date unless the obligor files with the court or the clerk of the court a written objection to the automatic assignment and a written request for a hearing. If the obligor files the written objection and the written request, the court or the clerk of the court shall not issue the automatic assignment of future earnings or income until a hearing is held and the matter is resolved. The court shall establish and implement other notice procedures as may be necessary to adequately protect the obligor's right to procedural due process.

(d) The order for automatic assignment shall operate as an assignment by the obligor to the [clerk of the court where the order is entered,] child support enforcement agency and shall be binding upon any person who is or shall become obligated to the obligor for payment of earnings or income and who has been served with a certified copy of the assignment order. The assignment shall remain in effect throughout the employment of the obligor and shall be terminated when appropriate by the child support enforcement agency [or department which initiated the assignment.]; provided that payment of all overdue support shall not be the sole basis for terminating the assignment. In the event that the obligee retains private counsel or proceeds pro se, the obligee shall have primary responsibility for terminating the assignment[, the agency or

department having secondary responsibility]. If the obligee fails to terminate the assignment when appropriate, the obligee shall reimburse the obligor to the extent of any overpayment. If the assignment is not terminated when appropriate, the obligor may seek reimbursement for any overpayment from the obligee[, or the child support enforcement agency], or the department]. The child support enforcement agency shall establish procedures by rule in accordance with chapter 91 for the prompt reimbursement for any overpayment to the obligor.

(e) An employer receiving an assignment order shall send the amounts withheld to the child support enforcement agency within ten days after the employee is paid. The employer shall begin withholding no later than the first pay period occurring within fourteen days following the date a certified copy of the order is mailed to the employer. An employer who is required to withhold amounts from the earnings or income of more than one employee may remit a sum total of the amounts in one check, with a listing of the amounts applicable to each employee.

(f) For each payment made pursuant to an assignment order, the person making such payment may deduct and retain as an administrative fee the additional amount of \$2 from the earnings or income owed to the obligor. Any assignment made pursuant to an assignment order shall have priority as against any garnishment, attachment, execution, or other assignment order, or any other order unless otherwise ordered by the court and the same shall not be subject to any of the exemptions or restrictions contained in part III of chapter 651, and chapters 652 and 653.

For purposes of this section, delinquencies in payments shall be computed on the basis of the moneys owed and unpaid on the date that the obligor under the support order has been given notice pursuant to law of the application for the order of assignment, and the fact that the obligor may have subsequently paid such delinquencies shall not relieve the court of its duty under this subsection to order the assignment.

[(e)] (g) Any employer who fails to comply with an order of assignment of future earnings or income, as provided for under this section, shall be liable to the obligee or the obligee's assignee for whom support was required to be paid, for the full amount of all sums ordered to be withheld and transmitted and not otherwise done so.

(h) The only basis for contesting a withholding under this section is a mistake of fact, which, for purposes of this section, means an error in the amount of current or overdue support or in the identity of the alleged absent parent.

(i) In contested cases, the State shall notify the obligor within forty-five days, as to whether the withholding of the obligor's earnings or income will occur.

(j) Obligor may request withholding of their earnings or income prior to the entry of an order for the repayment of a delinquency.

(k) Notice of automatic wage assignment after a one-month delinquency shall be included in every child support order entered hereafter in the State.

(l) The child support enforcement agency may allocate amounts withheld from the earnings or income of an obligor among more than one obligee if so ordered by the court.

[(f)] (m) The provisions of section 571-52(c) and (d) shall apply to all orders for automatic assignments issued under this section."

SECTION 14. Section 575-3, Hawaii Revised Statutes, is amended to read as follows:

“§575-3 Complaint. Proceedings under this chapter may be instituted upon complaint made under oath or affirmation by the spouse, child, or children, or either of them, by the child support enforcement agency, or by any other person or persons, or organization, against any person guilty of either of the above named offenses.”

SECTION 15. Section 576-25, Hawaii Revised Statutes, is amended to read as follows:

“§576-25 Officials to represent plaintiff. Where in any case initiated in a court of this State the plaintiff is unable to hire private counsel, the county attorney or corporation counsel upon request of the [department of social services and housing] child support enforcement agency shall represent the plaintiff, except that fees may be charged as provided for by [the provisions of] chapter [346; the] _____. The county attorney or corporation counsel of each county shall represent the plaintiff in any case in which the State is the responding state, provided that [in the latter case] the plaintiff may employ private counsel and in such event the county attorney or corporation counsel shall not be obligated to act save as requested by the court.”

SECTION 16. Section 576-30, Hawaii Revised Statutes, is amended to read as follows:

“§576-30 State information agency. The [department of social services and housing] child support enforcement agency is designated as the state information agency under this chapter, and it shall:

- (1) Compile a list of the courts and their addresses in this State having jurisdiction under this chapter and transmit the same to the state information agency of every state which has adopted this or a substantially similar act;
- (2) Maintain a register of such lists received from the states and transmit copies thereof as soon as possible after receipt to every court in this State having jurisdiction under this chapter.”

SECTION 17. Section 580-15, Hawaii Revised Statutes, is amended to read as follows:

“§580-15 County attorneys to represent court. The county attorneys of Maui and Kauai and the corporation counsels of the city and county of Honolulu and the county of Hawaii, within their respective counties, shall, when and to the extent authorized by their respective county governing bodies and upon request of the family court, represent the court in any contempt proceeding for the enforcement of any order or decree for support of a spouse or child support or both, except that fees may be charged as provided for by [the provisions of] chapter [346.] ____.”

SECTION 18. Section 580-47, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Upon granting a divorce, or thereafter if, in addition to the powers granted in subsections (c) and (d) [of this section], jurisdiction of such matters is reserved under the decree by agreement of both parties or by order of court after finding that good cause exists, the court may make such further orders as shall appear just and equitable (1) compelling the parties or either of them to provide for the support, maintenance, and education of the children of the parties; (2) compelling either party to provide for the support and maintenance of the other party; (3) finally dividing and distributing the estate of the parties, real,

personal, or mixed, whether community, joint, or separate; and (4) allocating, as between the parties, the responsibility for the payment of the debts of the parties whether community, joint, or separate, and the attorney's fees, costs, and expenses incurred by each party by reason of the divorce. In making such further orders, the court shall take into consideration: the respective merits of the parties, the relative abilities of the parties, the condition in which each party will be left by the divorce, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case. In establishing the amounts of child support, the court shall use the guidelines established under section -7. Provision may be made for the support, maintenance, and education of an adult or minor child and for the support, maintenance, and education of an incompetent adult child whether or not the application is made before or after the child has attained the age of majority.

In addition to any other relevant factors considered, the court, in ordering spousal support and maintenance, shall consider the following factors:

- (1) Financial resources of the parties;
- (2) Ability of the party seeking support and maintenance to meet his or her needs independently;
- (3) Duration of the marriage;
- (4) Standard of living established during the marriage;
- (5) Age of the parties;
- (6) Physical and emotional condition of the parties;
- (7) Usual occupation of the parties during the marriage;
- (8) Vocational skills and employability of the party seeking support and maintenance;
- (9) Needs of the parties;
- (10) Custodial and child support responsibilities;
- (11) Ability of the party from whom support and maintenance is sought to meet his or her own needs while meeting the needs of the party seeking support and maintenance;
- (12) Other factors which measure the financial condition in which the parties will be left as the result of the action under which the determination of maintenance is made;
- (13) Probable duration of the need of the party seeking support and maintenance.

The court may order support and maintenance to a party for an indefinite period or until further order of the court; provided that in the event the court determines that support and maintenance shall be ordered for a specific duration wholly or partly based on competent evidence as to the amount of time which will be required for the party seeking support and maintenance to secure adequate training, education, skills, or other qualifications necessary to qualify for appropriate employment, whether intended to qualify the party for a new occupation, update or expand existing qualification, or otherwise enable or enhance the employability of the party, the court shall order support and maintenance for a period sufficient to allow completion of the training, education, skills, or other activity, and shall allow, in addition, sufficient time for the party to secure appropriate employment."

SECTION 19. Section 584-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A child, or personal representative of the child, the child's natural mother, including a mother who is an unmarried woman or a mother who is a married woman who was separated from and was not living with her husband

prior to and at the time the child was conceived, or her personal representative or parent if the mother has died; or a man alleged or alleging himself to be the natural father, or his personal representative if the father has died; or the child support enforcement agency if the department of social services and housing [if it] is providing or has provided public assistance for the support or maintenance of the child under chapter 346, may bring an action for the purpose of declaring the existence or nonexistence of the father and child relationship within the following time periods:

- (1) If the child is the subject of an adoption proceeding,
 - (A) Within thirty days after the date of the child's birth in any case when the mother relinquishes the child for adoption during the thirty-day period; or
 - (B) Any time prior to the date of execution by the mother of a valid consent to the child's adoption, or prior to placement of the child with adoptive parents, but in no event later than three years after the child's birth; or
- (2) If the child has not become the subject of an adoption proceeding within three years after the child's birth; provided that any period of time during which the man alleged or alleging himself to be the natural father of the child is absent from the State or is openly cohabitating with the mother of the child or is contributing to the support of the child, shall not be computed."

SECTION 20. Section 584-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The county attorney or corporation counsel, upon request of the child support enforcement agency, shall represent the child's custodial parent, or the custodial parent's personal representative or parent if the custodial parent has died, or any agency authorized to seek the determination and establishment of paternity or maternity under chapter [346,] ___, if an application for services is made. Fees may be charged of the applicant as provided for by [the provisions of] chapter [346.] ___."

SECTION 21. Section 584-15, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall [consider all relevant facts, including:

- (1) The needs of the child;
- (2) The standard of living and circumstances of the parents;
- (3) The relative financial means of the parents;
- (4) The earning ability of the parents;
- (5) The need and capacity of the child for education, including higher education;
- (6) The age of the child;
- (7) The financial resources and the earning ability of the child;
- (8) The responsibility of the parents for the support of others; and
- (9) The value of services contributed by the custodial parent.] use the guidelines established under section -7."

SECTION 22. Section 584-17, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The court may order support payments to be made to the mother, the [clerk of the court,] child support enforcement agency, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court.”

SECTION 23. Sections 346-37.4 to 346-37.6, Hawaii Revised Statutes, are repealed.

SECTION 24. Section 346-55.5, Hawaii Revised Statutes, is repealed.

SECTION 25. All rights, powers, functions, and duties of the judiciary related to the collection and disbursement of child support as ordered by a court are transferred to the child support enforcement agency of the department of social services and housing. The positions of the special court trustees, created in Section 571- , which relate to the modification of support payments and the enforcement of visitation rights, and not with the collection and disbursement of child support, shall be established within the judiciary.

All officers and employees of the Judiciary and the Department of Social Services and Housing whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to state personnel laws and this Act.

No officer or employee of the State having tenure who is transferred by this Act shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

In the event that an officer or position held by an officer or employee having tenure is abolished and the officer, employee, or position is not transferred to the child support enforcement agency by this Act, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position of the State for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, computer software and data, other personal property, and leases of real property used or held by the judiciary on June 30, 1986, for the operations of the child support enforcement unit and Title IV-D agency or other functions relating to child support enforcement and paternity determination shall be transferred to the child support enforcement agency on July 1, 1986.

SECTION 26. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the

extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 27. Chapter 571, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§571- Modification of support and visitation decrees. (a) The special court trustee may assist any parent, guardian, or custodian materially affected by a court order or decree with the modification of any provision of the order or decree pertaining to support payments or with the enforcement of visitation rights; provided the special court trustee may assist in modifying support payments only upon finding, after investigation, reasonable cause to believe that the relative financial condition between the obligor and the person who receives the child support payments has substantially changed. For purposes of this section, such a substantial change has occurred if:

- (1) the obligor has involuntarily suffered a material reduction in financial resources; or
- (2) the person who receives child support payments has enjoyed a material increase in financial resources.

(b) The special court trustee may conduct an investigation for the purposes of subsection (a) where a person notifies the special court trustee that the relative financial condition between the obligor and the person who receives the child support payments has substantially changed.

(c) The special court trustee may utilize the services of public or private social agencies in conducting investigations under this section and in making the written findings to the court. Such written findings shall be received in evidence under the same conditions as would those of the special court trustee.

(d) The special court trustee shall submit findings and recommendations pertaining to the modification of support payments or enforcement of visitation rights in writing to the court after investigation under subsection (b). The special court trustee shall provide copies of the findings and recommendations to all persons materially affected by the proposed modification or enforcement. Any person materially affected by the proposed modification or enforcement who opposes the findings and recommendations shall file a written objection with the court or the clerk of the court no later than fifteen days after receipt of the findings and recommendations.

(e) When warranted, the court shall hold a hearing on the recommendations of the special court trustee no later than thirty days after the expiration of the fifteen day period under subsection (d).

(f) Whenever the court, in accordance with this section, approves in full or in part the recommendations of the special court trustee, the court, within a period of not more than ten days after the hearing, shall modify the decree or order to reflect the approved recommendations.

(g) Court costs, service fees, and the expenses of any investigation conducted by the special court trustee, in the discretion of the court, may be assessed wholly or partially against any parent, guardian, or custodian.

(h) For purposes of this section, support includes those amounts included as support under section 571-52.1.

(i) Nothing in this section shall be construed to the effect that child support and visitation compliance be conditioned upon each other. Each shall be treated as an independent right of the child as well as of a parent.”

SECTION 28. There is appropriated out of the general revenues of the State of Hawaii the sum of \$51,561, or so much thereof as may be necessary for fiscal year 1986-1987, to carry out the purposes of section 27 of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the judiciary.

SECTION 29. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,341,456, or so much thereof as may be necessary for fiscal year 1986-1987, to carry out the purposes of all sections of this Act, except for sections 27 and 28, including the hiring of necessary staff. The sum appropriated shall be expended by the department of social services and housing.

SECTION 30. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 31. This Act shall take effect on July 1, 1986; provided that upon the approval of this Act, the department of attorney general, the department of social services and housing and the judiciary shall commence preparation for the transfer of functions, personnel, and property required under this Act.

(Approved June 9, 1986.)

Notes

1. Prior to amendment "and" appeared here.
2. Edited pursuant to HRS §23G-16.5.

ACT 333

H.B. NO. 1815-86

A Bill for an Act Relating to Harbors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the statutory provision governing the liveaboard fee assessed and collected by the state department of transportation for the privilege of using a recreational vessel moored in a state small boat harbor as a place of principal habitation was enacted in 1976 based on an "arbitrary" recommendation by the legislative auditor that the liveaboard fee be based on a multiple of the mooring fee which is charged.

The legislature also finds that the increase in mooring fees proposed by the state department of transportation in amendments to the Hawaii administrative rules, title 19, department of transportation, subtitle 3 harbors division, part 3 small boat harbors, has a detrimental compounding effect upon the liveaboard fee, which by statute is linked to the mooring fee. As a result of the proposed mooring fee increases, the liveaboard fee is increased beyond a reasonable and justifiable limit and bears no substantive relation to the benefits received by liveaboards. Accordingly, the purpose of this Act is to establish a justifiable rate and reasonable manner of assessing liveaboard fees within the State's small boat harbors. It is the intent of the legislature that the method of assessing this fee be based on a factor or factors other than the mooring fee.

SECTION 2. Section 266-21.1, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The permittee shall pay moorage fees to the department for the use permit which shall be based on, but not limited to, the use of the vessel, its effect on the harbor, and use of facilities; and, furthermore:

- (1) Moorage fees shall be established by the department and shall be higher for non-residents.
- (2) An application fee shall be collected when applying for moorage in state small boat harbors and shall thereafter be collected annually when the application is renewed. It shall be:
 - (A) Set by the department; and
 - (B) Not less than \$100 for non-residents.
- (3) If a recreational vessel is used as a place of principal habitation, the permittee shall pay, in addition to the moorage fee, a liveaboard fee which will be:
 - (A) [Not less than two times the moorage fee] \$5.20 a foot of vessel length a month if the permittee is a state resident; and
 - (B) [Not less than three times the moorage fee] \$7.80 a foot of vessel length a month if the permittee is a nonresident[.]; provided that the liveaboard fees established by this subsection may be increased by the department at the rate of the annual cost of living index, but not more than five per cent in any one year, beginning January 1 of each year following the enactment of this Act.
- (4) If a vessel is used for commercial purposes from its permitted mooring, the permittee shall pay, in lieu of the moorage and liveaboard fees, a fee based on a percentage of the gross revenues derived from the vessel.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 12, 1986.)

ACT 334

H.B. NO. 2254-86

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the limited supply of physicians and attractiveness of private practice inhibit the efforts of the department of health to provide primary medical care in certain rural communities of the State and lessens the ability of the department of social services and housing to recruit physicians to serve in correctional facilities. The legislature further finds that an opportunity should be made available to attract physicians to fill positions in the department of health and department of social services and housing.

The purpose of this Act is to establish an innovative program which seeks to provide an opportunity for physicians to serve with the State and, consequently, ease the difficulty of the department of health and department of social services and housing in recruiting physicians. This Act does not change the standards of any medical residency program nor affect the existing relationship between the school of medicine and the various hospitals that take part in any residency program.

SECTION 2. The school of medicine of the University of Hawaii shall recommend that two positions within the University of Hawaii medical residency program be filled each year commencing in 1987, in accordance with this Act, by persons who have the necessary qualifications, other than the qualification of residency training, to take the examination for licensure as physicians under chapter 453, Hawaii Revised Statutes, and who volunteer to enter into contracts under section 3, whether or not they are graduates of the school of medicine of the University of Hawaii. The department of social services and housing and the department of health shall notify the school of medicine of the type of physicians needed by the correctional facilities and by rural communities. The school of medicine shall establish procedures to provide for applications by, and selection of, persons who are qualified and interested to fill the positions.

SECTION 3. Contract necessary for filling of positions. In order to fill a position under this Act, a person shall enter into a contract with the school of medicine stating that the person:

- (1) Agrees to participate in the residency program for the minimum period required to qualify for the licensure examination under chapter 453, Hawaii Revised Statutes;
- (2) Agrees to obtain a permanent license to practice medicine under chapter 453, Hawaii Revised Statutes, as soon as possible following termination of participation in the residency program;
- (3) Agrees to serve for two years as:
 - (A) An officer or employee of the department of social services and housing who is based in a correctional facility and whose normal course of duty requires medical treatment of inmates of the facility, another correctional facility, or both; or
 - (B) An officer or employee of the department of health who is employed to provide primary medical care to residents of and be based in a rural community with a shortage of physicians; and
- (4) Agrees to commence fulfilling the requirement under paragraph (3) immediately following the termination of participation in the residency program and licensure.

SECTION 4. Penalty for breach of contract. A person who is placed in the residency program under this Act, but who breaches any term of the contract under section 3, shall pay to the State damages of \$10,000; provided that a contract shall not be deemed breached if the person has obtained a permanent license to practice medicine under chapter 453, Hawaii Revised Statutes, but could not fulfill the requirements of section 3(3) and (4) because no employment vacancy existed in the correctional facilities of the department of social services and housing or no shortage of physicians existed in any rural community and the department of social services and housing or department of health, as applicable, certifies that no employment vacancy or shortage existed.

SECTION 5. Residency program; defined. For the purpose of this Act, "residency program" means a graduate medical education program in a hospital in this State which is accredited as a medical school residency program by the school of medicine of the University of Hawaii. The school of medicine may develop a special residency program for the purpose of this Act; provided that the program, upon completion by the person, qualifies the person to take the licensure examination under chapter 453, Hawaii Revised Statutes.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 12, 1986.)

ACT 335

S.B. NO. 1831-86

A Bill for an Act Relating to Mental Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 334-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“‘Obviously ill’ means a condition in which a person’s current behavior and previous history of mental illness, if known, indicate a disabling mental illness, and the person is incapable of understanding that there are serious and highly probable risks to health and safety involved in refusing treatment, the advantages of accepting treatment, or of understanding the advantages of accepting treatment and the alternatives to the particular treatment offered, after the advantages, risks, and alternatives have been explained to the person.”

SECTION 2. Section 334-59, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Initiation of proceedings. An emergency admission may be initiated as follows:

- (1) [A police officer may take into custody and transport to any facility designated by the director any person who he has probable cause to believe is committing an offense due to apparent mental illness or substance abuse and appears to be imminently dangerous to property, to self or to others.] If a police officer has reason to believe that a person is obviously ill, the officer shall call for assistance from the mental health emergency workers designated by the director. Upon determination by the mental health emergency workers that said person is obviously ill, the person shall be transported by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A police officer may also take into custody and transport to any facility designated by the director any person threatening or attempting suicide. The officer shall make application for the examination, observation, and diagnosis of the person in custody. The application shall state or shall be accompanied by a statement of the circumstances under which the person was taken into custody and the reasons therefor which shall be transmitted with the person to some physician at the facility.
- (2) Upon written or oral application of any licensed physician, attorney, member of the clergy, health or social service professional, or any state or county employee in the course of his employment, a judge may issue an ex parte order orally, but shall reduce [said] the order to writing by the close of the next court day following the application, stating that there is probable cause to believe a person is mentally ill or suffering from substance abuse [and], is imminently dangerous to self[, to] or others, [or to property] or is obviously ill, and in need of care and/or treatment, giving the findings on which the conclusion is based and directing that a police officer or

other suitable individual take the person into custody and deliver him to the nearest facility designated by the director for emergency examination and treatment. The ex parte order shall be made a part of the patient's clinical record. If the application is oral, the person making the application shall reduce [said] the application to writing and shall submit same by noon of the next court day to the judge who issued the oral ex parte order. The written application shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.

- (3) Any licensed physician who has examined a person and has reason to believe the person is (A) mentally ill or suffering from substance abuse, and (B) is imminently dangerous to self[, to] or others, [or to property,] or is obviously ill, and (C) is in need of care and/or treatment, may direct transportation, by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization and may administer such treatment as is medically necessary for the person's safe transportation."

SECTION 3. Section 334-59, Hawaii Revised Statutes is amended by amending subsection (d) to read as follows:

"(d) Emergency hospitalization. If the physician who performs the emergency examination has reason to believe that the patient is (1) mentally ill or suffering from substance abuse, and (2) is imminently dangerous to self[, to] or others, [or to property,] or is obviously ill, and (3) is in need of care and/or treatment, the physician may hospitalize him on an emergency basis and/or cause the patient to be transferred to another psychiatric facility for emergency hospitalization. The patient shall have the right immediately upon admission to telephone his guardian or a member of his family or an adult friend and his attorney. If the patient declines to exercise his right, the staff of the facility shall inform an adult patient of his right to waive notification to his family and shall make reasonable efforts to ensure that the patient's guardian or family is notified of the emergency admission but the patient's family need not be notified if the patient is an adult and requests that there be no notification. The patient shall be allowed to confer with his attorney in private."

SECTION 4. Section 334-60.2, Hawaii Revised Statutes, is amended to read as follows:

"§334-60.2 Involuntary hospitalization criteria. A person may be committed to a psychiatric facility for involuntary hospitalization, if the court finds:

- (1) That the person is mentally ill or suffering from substance abuse;
- (2) That the person is imminently dangerous to self or others, [or] is gravely disabled or is obviously ill; and
- (3) That the person is in need of care or treatment, or both, and there is no suitable alternative available through existing facilities and programs which would be less restrictive than hospitalization."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 13, 1986.)

ACT 336

S.B. NO. 1933-86

A Bill for an Act Relating to Awards of Attorney's Fees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 661, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§661- Awards of attorney's fees against agencies. (a) Any law to the contrary notwithstanding, in any civil proceeding initiated by a small business against any agency in a state court, the court shall allow the small business reasonable attorney's fees, if the court finds that the agency lacked a reasonable basis for its action.

(b) Any agency against which a civil proceeding is initiated in any state court may request and shall be awarded reasonable attorney's fees, if the court finds that the small business's action was frivolous and wholly without merit.

(c) Whenever any court awards attorney's fees pursuant to this section, the award shall not exceed \$7,500. The award shall be limited to the attorney's normal hourly rate, but in no event more than \$75 an hour multiplied by the number of hours reasonably spent in litigating claims and issues upon which the claimant clearly and substantially prevails. If a small business is represented by counsel from a publicly-funded legal service organization, attorney's fees shall not be awarded.

(d) The small business or agency shall provide the court with evidence to establish the attorney's normal hourly rate and the number of hours spent representing the claimant on each issue or claim which the claimant asserts. Each request for attorney's fees shall be accompanied by itemized records detailing the nature of the services provided or performed and the amount of time spent coincidental to the time when the legal services were actually provided or performed. A claimant that fails to comply with this section shall not be awarded attorney's fees.

(e) All attorney's fees awarded against an agency pursuant to this section shall be payable only after a budget request for the amount is submitted to and approved by the legislature. The amount of attorney's fees awarded against an agency shall be identified by the agency and included in the agency's budget request submitted to the legislature for the fiscal year immediately following the year the award was made against the agency. If the budget request is approved by the legislature, that amount shall be included in the program appropriation for agency in the appropriation bill for that fiscal year.

(f) As used in this section:

"Agency" means any state or county board, commission, department, or officer authorized by law to make rules or to adjudicate contested cases except those in the legislative or judicial branches.

"Civil proceeding" means any proceeding other than a criminal proceeding or a proceeding before a family court.

"Small business" means an independently owned business with less than fifty employees."

SECTION 2. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to the effective date of the Act.

SECTION 3. New statutory material is underscored.¹

ACT 337

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 337

H.B. NO. 317

A Bill for an Act Relating to the Limitations Period for Federal Actions Brought in State Court.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 657-11, Hawaii Revised Statutes, is amended to read as follows:

“§657-11 Recoveries authorized by federal statute. Whenever any federal statute provides for [an imposition of a civil penalty or liquidated damages or imposes a new liability or enlarges any existing liability and the statute does not specify] damages or equitable relief and neither the federal statute nor any specific state statute specifies the period within which suit [to recover the penalty, liquidated damages, or any sum arising out of any new or enlarged liability] may be brought, the suit, if brought in a state court, shall be commenced within [one year] two years from the date the cause of action arises or be thereafter barred.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval, except that claims under federal statutes not barred on the effective date of this Act by section 657-1(4), Hawaii Revised Statutes, shall not be affected by this Act if those suits under federal statutes are commenced within three months after the effective date of this Act.

(Approved June 13, 1986.)

ACT 338

H.B. NO. 1688-86

A Bill for an Act Relating to Medical Treatment Decisions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER MEDICAL TREATMENT DECISIONS

§ -1 **Purpose.** The Legislature finds that all competent persons have the fundamental right to control the decisions relating to their own medical care, including the decision to have medical or surgical means or procedures calculated to prolong their lives provided, withheld, or withdrawn. The Legislature further finds that the artificial prolongation of life for persons with a

terminal condition may secure only a precarious and burdensome existence, while providing nothing medically necessary or beneficial to the patient.

In order that the rights of patients may be respected even after they are no longer able to participate actively in decisions about themselves, the Legislature hereby declares that the laws of the State of Hawaii shall recognize the right of an adult person to make a written declaration instructing his or her physician to provide, withhold, or withdraw life-sustaining procedures in the event of a terminal condition.

§ -2 Definitions. Whenever used in this chapter, unless the context otherwise requires:

"Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.

"Declarant" means a person who has executed a declaration in accordance with the requirements of section -3.

"Declaration" means a written document voluntarily executed by the declarant in accordance with the requirements of section -3, regardless of form.

"Health care provider" means a person who is licensed, certified, or otherwise authorized or permitted by the law of this State to administer health care in the ordinary course of business or practice of a profession.

"Incompetent person" means any person who is impaired by reason of mental illness, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning that person's health care.

"Life-sustaining procedure" means any medical procedure or intervention except for the provision of fluids, nourishment, medication, or other procedures necessary for patient comfort or pain relief, that when administered to a qualified patient, will serve only to prolong the dying process.

"Physician" means an individual licensed to practice medicine under chapter 453 or chapter 460.

"Qualified patient" means a patient who has executed a declaration in accordance with this chapter, and who has been diagnosed and certified in writing to be in a terminal condition by two physicians who have personally examined the patient, one of whom is the patient's attending physician. Provided, that if there is more than one attending physician, all such attending physicians must certify in writing that the patient is in a terminal condition.

"Terminal condition" means any incurable or irreversible disease, illness, injury or condition which without the administration of life-sustaining procedure will, as a medical probability, result in death in a relatively short time.

§ -3 Execution of declaration. (a) Any competent person who has attained the age of majority may, at any time, execute a written declaration directing the provision, withholding, or withdrawal of life-sustaining procedures in the event such person should have a terminal condition.

(b) The declaration made pursuant to this chapter:

- (1) Shall be in writing;
- (2) Shall be signed by the person making the declaration, or by another person in the declarant's presence and at the declarant's expressed direction;
- (3) Shall be dated;
- (4) Shall be signed in the presence of two or more witnesses who:
 - (A) Are at least 18 years of age;

- (B) Are not related to the declarant by blood, marriage, or adoption; and
- (C) Are not the attending physician, an employee of the attending physician, or an employee of the medical care facility in which the declarant is a patient;
- (5) Shall have all signatures notarized at the same time.¹

§ -4 Suggested form of written declaration. A declaration executed pursuant to this chapter requesting that medical treatment be withheld or withdrawn may, but need not, be substantially in the following form, and may include other specific directions. Should any of the specific directions be held to be invalid, such invalidity shall not affect other directions of the declaration which can be given effect without the invalid direction, and to this end the directions in a declaration are severable.

DECLARATION

A. Statement of Declarant

Declaration made this _____ day of _____ (month, year). I, _____, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, and do hereby declare:

If at any time I should have an incurable or irreversible condition certified to be terminal by two physicians who have personally examined me, one of whom shall be my attending physician, and the physicians have determined that I am unable to make decisions concerning my medical treatment, and that without administration of life-sustaining treatment my death will occur in a relatively short time, and where the application of life-sustaining procedures would serve only to prolong artificially the dying process, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication, nourishment, or fluids or the performance of any medical procedure deemed necessary to provide me with comfort or to alleviate pain.

In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this declaration shall be honored by my family and physician(s) as the final expressions of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal.

I understand the full import of this declaration and I am emotionally and mentally competent to make this declaration.

Signed _____

Address _____

B. Statement of Witnesses

I am at least 18 years of age and

- not related to the declarant by blood, marriage, or adoption; and
- not the attending physician, an employee of the attending physician, or an employee of the medical care facility in which the declarant is a patient.

The declarant is personally known to me and I believe the declarant to be of sound mind.

Witness _____

Address _____

Witness _____
Address _____

C. Notarization

Subscribed, sworn to and acknowledged before me by _____, the declarant, and subscribed and sworn to before me by _____ and _____, witnesses, this _____ day of _____, 19____.

(SEAL) Signed _____

(Official capacity of officer)

§ -5 Presumed validity of declaration. (a) If the qualified patient is incompetent at the time of the decision to withhold or withdraw life-sustaining procedures, a declaration executed in accordance with section -3 is presumed to be valid.

(b) For the purpose of this act, a physician or medical care facility may presume, in the absence of actual notice to the contrary, that an individual who executed a declaration was of sound mind when the declaration was executed.

(c) The fact of an individual's having executed a declaration shall not be considered an indication of a declarant's mental incompetency. Age of itself shall not bar a determination of competency.

§ -6 Pregnancy. A declaration of a qualified patient diagnosed as pregnant by the attending physician shall be given no force or effect during the course of the pregnancy.

§ -7 Patient's wishes supersede declaration. The desires of a declarant shall at all times supersede the effect of the declaration.

§ -8 Declaration becomes part of medical records. It shall be the responsibility of the declarant to provide for delivery of the notarized declaration to the attending physician. In the event the declarant is comatose, incompetent, or otherwise mentally or physically incapable, any other person may deliver the notarized declaration to the physician. An attending physician who is so notified shall promptly make the declaration a part of the declarant's medical records.

§ -9 Duty to deliver. Any person having a declaration of another in his or her possession and who becomes aware that the declarant is in circumstances under which the terms of the declaration may become applicable, shall deliver the declaration to the declarant's attending physician or to the medical care facility in which the declarant is a patient.

§ -10 Written certification. (a) An attending physician who has been notified of the existence of a declaration executed under this act shall make all reasonable efforts to obtain the notarized declaration and, if the declaration so requests, shall without delay after the diagnosis of a terminal condition of the declarant, take the necessary steps to provide for written certification of the declarant's terminal condition by the attending physician and another physician who has examined the declarant, so that the declarant may be deemed to be a qualified patient, as defined in section -2.

(b) Written certification of a declarant's terminal condition should be substantially in the following form:

CERTIFICATION OF INCOMPETENCE AND TERMINAL CONDITION

We hereby certify that _____ is not,
name of patient

in our professional opinion, able to participate in decisions concerning medical treatment to be administered and has been diagnosed as having an incurable or irreversible disease, illness, injury or condition, specifically _____,

diagnosis

and it is our professional judgment that this terminal condition will result in the death of the patient without the use of life-sustaining procedures.

Signed _____
Attending Physician

Signed _____
Second Attending Physician

(c) All inpatient medical care facilities shall develop a system to visibly identify a qualified patient's chart containing the declaration as set forth in this article.

§ -11 Transfer to another physician. (a) An attending physician and any other physician under his or her direction or control, having possession of the patient's declaration or having knowledge that such declaration is part of the patient's record in the medical care facility in which the declarant is receiving care, shall take steps to qualify the patient and shall follow as closely as possible the terms of the declaration.

(b) An attending physician who, because of personal beliefs or conscience, refuses, or is unable, to certify a patient as terminal or to comply with the terms of the patient's declaration shall, without delay, make the necessary arrangements to effect the transfer of the patient, and the appropriate medical records that qualify or would qualify said patient, to another physician chosen by the qualified patient, or by the family of the qualified patient, for effectuation of the terms of the qualified patient's declaration. Such a physician who transfers the patient without delay, or makes a good faith attempt to do so, shall not be subject to criminal prosecution, subject to civil liability, or found to have committed an act of unprofessional conduct for refusal to comply with the terms of the declaration. Transfer under these circumstances shall not constitute abandonment.

§ -12 Revocation. A declaration may be revoked at any time by the declarant without regard to the declarant's mental state or competency, by any of the following methods:

- (1) By being canceled, defaced, obliterated, or burnt, torn, or otherwise destroyed by the declarant or by some person in the declarant's presence and at the declarant's direction.
- (2) By a written revocation signed and dated by the declarant expressing his or her intent to revoke. The attending physician shall record in the patient's medical record the time and date when the physician received notification of the written revocation.
- (3) By a declarant's verbal expression, in the presence of two adult witnesses, of an intent to revoke the declaration. Such revocation

shall become effective upon communication to the attending physician by the declarant or by both witnesses. The attending physician shall record in the patient's medical record the time, date, and place of the revocation and the time, date, and place, if different, of when the attending physician received notification of the revocation.

§ -13 **Mercy killing or euthanasia prohibited.** Nothing in the chapter shall be construed to condone, authorize, or approve mercy killing or euthanasia.

§ -14 **Suicide.** Death resulting from the withholding or withdrawal of life-sustaining procedures from a qualified patient under this chapter does not, for any purpose, constitute suicide.

Execution of a declaration under this chapter does not, for any purpose, constitute attempted suicide.

§ -15 **Effect on life insurance policies.** The execution of a declaration pursuant to section -3 shall not affect the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated by the withholding or withdrawal of life-sustaining procedures from an insured patient in accordance with the provisions of this chapter, notwithstanding any term of the policy to the contrary.

§ -16 **Health care or health insurance.** No physician, medical care facility or other health care provider, nor any health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, nonprofit medical service corporation, mutual nonprofit hospital service corporation, or nonprofit hospital service plan shall require any person to execute a declaration as a condition for being insured for, or receiving, health care services.

§ -17 **Penalties.** (a) Failure of an attending physician to certify a terminal condition in writing according to section -10 or, once a patient is certified as terminal, failure of the physician to transfer according to section -11, constitutes professional misconduct.

(b) Any person who threatens, directly or indirectly, or coerces, or intimidates any person to execute a declaration directing the withholding or withdrawal of life-sustaining procedure shall be guilty of a class C felony.

(c) Any person who willfully conceals, cancels, defaces, obliterates, or damages another's declaration without the declarant's consent or who falsifies or forges a declarant's revocation of declaration with the intent to create the false impression that the declarant has directed that life-sustaining procedures be utilized for the prolongation of the declarant's life shall be guilty of a misdemeanor.

(d) A physician who willfully fails to record a statement of revocation according to the requirements of section -12 is guilty of a misdemeanor.

§ -18 **Health personnel protections.** In the absence of actual notice of the revocation of a declaration, no health care provider, medical care facility, physician, or other person acting under the direction of an attending physician shall be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the withholding or the withdrawal of life-sustaining procedures from a patient with a terminal condition in accordance with this act unless the absence of actual notice resulted from the negligence of the health care provider, physician, or other person.

§ -19 **Safeguard provision.** Anyone who has good reason to believe that the withdrawal or withholding of life-sustaining procedures in a particular case:

- (1) Is contrary to the most recent expressed wishes of a declarant;
- (2) Is being proposed pursuant to a declaration that has been falsified, forged, or coerced; or
- (3) Is being considered without the benefit of a revocation which has been unlawfully concealed, destroyed, altered or cancelled;

may petition the family court for appointment of a guardian for such declarant.

§ -20 **Participation in organ transplantation not allowed.** No physician participating in a decision to withdraw or withhold life-sustaining procedures from a declarant may participate in transplanting the vital organs of the declarant to another person.

§ -21 **Procedure in absence of declaration.** (a) In the absence of a declaration, ordinary standards of current medical practice will be followed.

(b) The withholding or withdrawal of life-sustaining procedures pursuant to (a) shall not be considered grounds for any civil or criminal action nor shall it be considered professional misconduct.

§ -22 **Preservation of existing rights.** Nothing in this chapter shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding or withdrawal of life-sustaining procedures in any lawful manner. In such respect the provisions of this chapter are cumulative.

§ -23 **No presumption.** This chapter creates no presumption concerning the intention of an individual who has revoked or has not executed a declaration to consent to the use or withholding or withdrawal of life-sustaining procedures in the event of a terminal condition.

§ -24 **Retroactive effect.** The declaration of any qualified patient executed prior to the effective date of this chapter shall be give² effect as provided in this chapter.

§ -25 **Recognition of document executed in another state.** A document executed in another state will be considered valid for purposes of this chapter if the document and the execution of said document substantially complies with the requirements of this chapter.

§ -26 **Effect of multiple documents.** In the event a person has one or more valid declarations executed in accordance with this chapter, and/or one or more valid durable powers of attorney executed pursuant to chapter 560, or both, the most recently executed document shall reflect the person's intent.

§ -27 **Severability.** The provisions of this act are severable. If any provision of this chapter or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions of this chapter which can be given effect without the invalid provision or application."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 13, 1986.)

Notes

1. Punctuation corrected and the word "and" deleted here.
2. So in original.

ACT 339

H.B. NO. 2178-86

A Bill for an Act Relating to Statutory Revision: Amending Various Provisions of the Hawaii Revised Statutes for the Purpose of Correcting Errors, Clarifying Language, Correcting References, and Deleting Obsolete or Unnecessary Provisions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 121-15, Hawaii Revised Statutes, is amended to read as follows:

“§121-15 Commissioned and warrant officers; transfer to inactive list, retirement, separation. Officers may be transferred to the inactive or retired lists, or separated from the service as follows:

- (1) An officer may be honorably discharged by reason of resignation, removal of residence from the State, failure to meet or maintain the requirements for federal recognition, or acceptance of an incompatible office.
- (2) An officer who is eligible to be placed on the retired list under federal law, or who has completed the years of service required for retirement under chapter 67 of Title 10, United States Code, may at [his] the officer's request be discharged, or with the approval of the governor be placed on the retired list.
- (3) Any commissioned officer who has served in the same grade in the military service of the State for a continuous period of not less than ten years, upon [his] the commissioned officer's own request, may be honorably discharged or placed on the retired list.
- (4) Any officer who is rendered surplus by the disbandment of [his] the officer's unit, or who changes [his] the officer's residence within the State and is unable to serve with the unit to which [he] the officer was assigned, shall be absorbed in another unit of the army or air national guard, or if there be no such other available unit the officer shall be transferred to an inactive status as authorized by the secretary of the army or of the air force, and may be ordered to perform appropriate duties.
- (5) At any time the moral character, capacity, and general fitness for the service of any officer may be investigated and determined by an efficiency board of three commissioned or warrant officers, senior in rank to [him] the officer if possible, to be appointed by the governor. The investigation shall be thorough and impartial, and may include misconduct in civil life for which the officer is not amenable to trial by court-martial. If the findings are unfavorable to the officer and are approved by the governor, the officer shall be discharged.
- (6) At any time the physical fitness for the service of any officer [may], upon order of the governor, may be investigated and determined by a board of not less than three commissioned officers, not less than two of whom shall be medical officers. If the board reports the officer to be physically unable to perform the duties of [his] the officer's office, and the report is approved by the governor, the officer may be discharged or placed on the retired list.
- (7) Any officer who is under sentence of imprisonment by a civil court for any offense involving moral turpitude, whether suspended or not, or who has been absent without leave for three months, or who

refuses or neglects to report before the board [as] provided in [paragraphs] paragraph (5) or (6) within a period of three months from the time [he] the officer is ordered to report before the board may be discharged with the approval of the governor.

- (8) Upon the approval by the governor of a sentence of dismissal rendered by a court-martial, the officer shall be dismissed."

SECTION 2. Section 121-40, Hawaii Revised Statutes, is amended to read as follows:

"§121-40 Pay of enlisted [men] personnel while on active duty. Enlisted personnel of the army and air national guard while on active duty in the service of the State, except during periods of annual field training or year-round field training, shall receive the same pay and allowances as enlisted personnel of similar rank in the United States army and air force, respectively; provided that the aggregate of the pay and allowances, computed on a daily basis, shall in no event be less than the amount equal to ten times the hourly wage specified in section 387-2."

SECTION 3. Section 128-6, Hawaii Revised Statutes, is amended to read as follows:

"§128-6 Civil defense powers, in general. The governor may:

- (1) Plans and programs. Prepare comprehensive plans and programs for the civil defense of this State, the plans and programs to be integrated into and coordinated with the civil defense plans of the federal government and of other states to the fullest possible extent; and coordinate the preparation of plans and programs for civil defense by the political subdivisions of the State, the plans to be integrated into and coordinated with the civil defense plans and programs of the State to the fullest possible extent.
- (2) Training[;], public information. Institute training programs and public information programs.
- (3) Direct operational control, when. In the event of disaster or emergency beyond local control, or which in the opinion of the governor is such as to make state operational control necessary, assume direct operational control over all or any part of the civil defense functions within this State.
- (4) Insignia. Provide or authorize suitable insignia of authority for all authorized personnel.
- (5) Registration and blood typing. Provide for:
 - (A) Compulsory registration and identification to the extent that voluntary registration and identification has not been accomplished under chapter [28;] 846, part II; and
 - (B) Compulsory RHo blood typing on females of child bearing age or younger, and such other compulsory blood typing as may be approved by competent medical authority.
- (6) Protection of facilities. Require each public utility, or any person owning, controlling, or operating a vital facility, to protect and safeguard its or [his] the person's property, or to provide for the protection and safeguarding; and provide for the protection and safeguarding of all public properties, or such other properties as the governor may consider advisable; provided that, without prejudice to the generality of the foregoing two clauses, the protecting and safeguarding may include the regulation or prohibition of public

- entry thereon, or the permission of the entry upon such terms and conditions as [he] the governor may prescribe.
- (7) Explosives, etc. Whenever in [his] the governor's opinion the laws of the State do not adequately provide for the common defense, public health, safety, and welfare, investigate, regulate, or prohibit the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution of, as well as any transaction related to, explosives, firearms, and ammunition (including the power to require the [re-registration] reregistration of firearms), inflammable materials and other objects, implements, substances, businesses, or services of a hazardous or dangerous character, or particularly capable of misuse by disloyal persons or the enemy, or obstructive of or tending to obstruct military operations or civil defense, including, without limitation, intoxicating liquor and the liquor business; and authorize the seizure and forfeiture of any such objects, implements, or substances unlawfully possessed, as provided in section 128-28.
 - (8) Air raid drills, etc. Direct or control, as may be necessary for civil defense[,];
 - (A) Air raid drills, and other alerts, tests, and exercises[,];
 - (B) Blackouts and practice blackouts[,];
 - (C) Partial or full mobilization of civil defense organizations in advance of actual disaster[,];
 - (D) Warnings and signals for drills, alerts, or attacks, and the mechanical devices to be used in connection therewith[,];
 - (E) Shutting off water mains, gas mains, electric power connections, or suspension of other services; and to the extent permitted by or under federal law, suspension of radio transmission[,];
 - (F) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after blackouts, drills, alerts, or attacks[,];
 - (G) Traffic control[,];
 - (H) The congregation of the public in stricken or danger areas or under dangerous conditions[, and]; and
 - (I) The evacuation and reception of the civilian population, provided[,] that only during a civil defense emergency period shall there be instituted under this paragraph mandatory or prohibitory requirements having the force and effect of law."

SECTION 4. Section 128-8, Hawaii Revised Statutes, is amended to read as follows:

"§128-8 Additional powers in a civil defense emergency period. The governor [may], in the event of a civil defense emergency period, may exercise the following additional powers pertaining to civil defense:

- (1) Protective devices, shelters, first aid stations.
 - (A) Require that persons provide themselves with protective devices[,];
 - (B) Require the installation or provision of protective devices and shelters in or appurtenant to dwellings, hotels, factories, and other places of business, office buildings, hospitals, schools, and theaters, and other places where the public congregate[, and]; and

- (C) Require the installation or provision of first aid stations with the necessary materials and personnel in or appurtenant to hotels, factories, and other places of business, office buildings, schools, and theaters, and other places where the public congregate.
- (2) Quarantine, immunization, etc., nuisances. Provide for and require the quarantine or segregation of persons who are affected with any infectious, communicable, or other disease dangerous to the public health and safety, or persons who are the source of other contamination, in any case where in [his] the governor's opinion the existing laws are not adequate to assure the public health and safety; provide for the care and treatment of the persons; supplement the provisions of sections [325-31] 325-32 to 325-37 concerning compulsory immunization of persons against disease and institute additional compulsory immunization programs; provide for the isolation or closing of property which is a source of contamination or is in a dangerous condition in any case where, in [his] the governor's opinion, the existing laws are not adequate to assure the public health and safety, and designate as public nuisances acts, practices, conduct, or conditions which are dangerous to the public health or safety or to property; authorize that public nuisances be summarily abated, and if need be that the property be destroyed, by any police officer or authorized person, or provide for the cleansing or repair of property, and if the cleansing or repair is to be at the expense of the owner, the procedure therefor shall follow as nearly as may be the provisions of section 322-2, which are made applicable; further, authorize without the permission of the owners or occupants, entry on private premises for any of such purposes.
- (3) Police and fire departments. Summarily remove or suspend, any other law to the contrary notwithstanding, any member of a police commission, chief of police, chief of a fire department, police officer, or firefighter.
- (4) Suspension of laws. Suspend any law which impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, civil defense or other emergency functions, including without limitation, laws which by this chapter specifically are made applicable to civil defense personnel."

SECTION 5. Section 128-23, Hawaii Revised Statutes, is amended to read as follows:

"§128-23 Determination of compensation. Whenever the governor requisitions and takes over any property or the temporary use thereof, the owner, or other person entitled thereto, shall be paid as compensation for the property or use, such sum as the governor determines to be fair and just, within twenty days after it has been requisitioned and taken; provided[,], that the compensation for temporary use may be paid in monthly or lesser installments. If any person is unwilling to accept, as full and complete compensation for the property or use, the sum determined by the governor, the person shall be paid seventy-five per cent of the sum determined by the governor, and shall be entitled to sue the State for such additional sum as, when added to the sum already received by the person, the person may consider fair and just compensation for such property or use, in the manner provided by chapter 661; provided[,], that the suit is instituted within two years after the requisition in the case of the taking of real property in

fee simple, or within one year after the requisition in all other cases, subject, to [the provisions of] sections 657-13 to [657-16] 657-15 which are hereby made applicable to such a suit; except that no more than six months shall be allowed for the bringing of a suit after the appointment of a guardian of the property of the person under disability, or the removal of the disability, or after the appointment of personal representatives; provided[,] further[,] that recovery shall be confined to the fair market value of the property or its fair rental value, as the case may be, without any allowance for prospective profits, punitive or other damages. Whenever the owner of property, or other person entitled to compensation on account of the requisitioning of property or the use thereof, is under a disability, or has died, and no guardian, or personal representative has been appointed, the State acting through the attorney general, may apply for the appointment of a guardian of the property of the person, or for the appointment of a personal representative.”

SECTION 6. Section 134-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No person who:

- (1) Is or has been under treatment for addiction to any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section 712-1240, or intoxicating liquor;
- (2) Has been committed pursuant to [section 333-27, 333-35, or 333-35.5;] sections 333-42.5 and 333-43.5;
- (3) Has been admitted to and detained at a psychiatric facility pursuant to chapter 334, part IV or V;
- (4) Has been acquitted of a crime on the grounds of mental disease, disorder, or defect pursuant to section 704-411; or
- (5) Is or has been under treatment for significant [behavioral,] behavioral, emotional, or mental disorders as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndromes;

shall own, possess, or control any firearm or ammunition therefor, unless the person has been medically documented to have been cured of the addiction, mental disease, disorder, or defect.”

SECTION 7. Section 141-7, Hawaii Revised Statutes, is amended to read as follows:

“§141-7 **General penalty.** Any person violating any of the provisions of chapters 141, 142, and 144 to [151,] 149A, for which violation a penalty is not otherwise provided, or violating any rule or regulation of the department of agriculture, and any master of any vessel which brings into the State any article which the department [shall] at any time shall prohibit from being imported into the State; and the master of any vessel from which is landed any article required in chapters 141, 142, and 144 to [151] 149A to be inspected, before [he] the master has received a permit to land the articles from the department or its officer or inspector, as provided by chapters 141, 142, and 144 to [151,] 149A, shall be fined not more than \$500.”

SECTION 8. Section 149A-18, Hawaii Revised Statutes, is amended to read as follows:

“§149A-18 **Denial, suspension, or revocation of [[]permit[]].** The department may deny issuance of a [[]permit[]] to sell a restricted pesticide for reasonable cause. Any [[]permit[]] issued pursuant to regulations adopted

under section 149A-17 may be suspended or revoked by the department after due hearing, for violation of any condition of the permit, or of any law or regulation pertaining to the sale of pesticides.

Any order made by the department for the suspension or revocation of a permit shall be in writing and shall set forth the reasons for the suspension or revocation.

The action of the department in suspending or in revoking a permit may be reviewed in the manner provided by chapter 91."

SECTION 9. Section 149A-31, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~ **149A-31**] **Prohibited acts.** No person shall:

- (1) Use any licensed pesticide in a manner inconsistent with its label;
- (2) Use, store, transport, or discard any pesticide or the containers of such pesticide in any manner which would have unreasonable adverse effect on the environment;
- (3) Use or apply restricted pesticides unless the person is a certified pesticide applicator or under the direct supervision of a certified pesticide applicator with a valid certificate issued pursuant to regulations adopted under section 149A-33(1);
- (4) Use or apply pesticides in any manner that has been ~~[banned]~~ suspended, canceled, or restricted pursuant to section ~~[149A-32;~~ 149A-32.5; or
- (5) Falsify any record or report required to be made or maintained by regulations adopted pursuant to this chapter."

SECTION 10. Section 183-21, Hawaii Revised Statutes, is amended to read as follows:

"**§183-21 Penalties.** Any person who receives actual notice from the department of land and natural resources that one or more cattle belonging to such person have been found to be and are running on any forest reservation [as defined] referred to in section 183-19, excepting in the case of the owner of the land, and who fails or neglects within ten days after the receipt of the notice to remove the cattle from any reservation, or to shoot or destroy the [same,] cattle, shall be fined \$10 for each animal belonging to the person thereafter found on any forest reservation and proven to have been running thereon at the time of the service of the notice. If any cattle as to which notice has been served on the owner, [shall,] after the expiration of the ten days' notice, shall not be [not] removed and shall be found running on any forest reservation, the department may remove, shoot, or destroy the [same] cattle without compensation to the owner. All cattle found running on any forest reservation shall be deemed prima facie to be the property of the person whose brand if any they bear."

SECTION 11. Section 188-34, Hawaii Revised Statutes, is amended to read as follows:

"**§188-34 Fishing in Honolulu harbor, Hilo bay, restricted.** It is unlawful to take or kill fish by means of any draw, drag, or seine net in the waters of the harbor of Honolulu; provided that commercial marine licensees as defined in chapter ~~[187]~~ 187A may take bait fish by means of any draw, drag, or seine net during periods scheduled by the harbor master.

It is unlawful except for commercial marine licensees taking bait fish, or persons using their catch solely for home consumption, to take or kill fish by means of any draw, drag, or seine net in the waters of that portion of the bay of

Hilo bounded by the breakwater, a line from the outer end of the breakwater to Alealea Point, and the shoreline from Alealea Point to the inshore end of the breakwater.”

SECTION 12. Section 188-45, Hawaii Revised Statutes, is amended to read as follows:

“§188-45 **Nehu and iao, taking prohibited; exceptions.** It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any nehu or iao; provided that any person may lawfully catch nehu for [his] the person's family consumption or bait purposes with a net not longer than fifty feet; and provided further that the department of land and natural resources may issue to commercial marine licensees, as defined in chapter [187] 187A, licenses to take nehu, iao, or any other species for which an open season may be declared by the department for use as bait only; provided that nehu may be taken by any licensed commercial marine licensee only if employed on a live-bait tuna boat and only if the licensee's principal means of livelihood is derived from tuna fishing and the sale of tuna, and the nehu is not sold to others. The licenses may be issued by the department upon terms and conditions the department may deem necessary to conserve the supply of the fish within state waters. The license may be summarily revoked for a violation of any term or condition thereof, and any or all licenses may be revoked summarily whenever, in the judgment of the department, the action is necessary for the conservation of the fish.

Any person whose license has been revoked for violation of the terms and conditions of the person's license shall not be eligible for another license until the expiration of one year from the date of revocation.”

SECTION 13. Section 207-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In giving notice of and conducting hearings, and in making and entering orders, pursuant to subsection (a), the director shall have all of the powers conferred upon [him] the director as the insurance commissioner by, and shall observe and comply with, and the hearings shall be conducted at the time or times and in the manner specified in, and subject in all respects to, sections 431-51 [to], 431-53, 431-60 (exclusive of subsection (c) of section 431-60), and 431-62 to 431-67. Appeals from orders made and entered pursuant to subsection (a) [of this section] may be taken at the time and in the manner and to the courts provided in, and shall in all respects be subject to sections 431-68 to 431-71, [section] 431-72(a) and (b), and [section] 431-73.”

SECTION 14. Section 209-17, Hawaii Revised Statutes, is amended to read as follows:

“§209-17 **Use of funds in relation to federal projects.** The funds allocated to this part shall be expended by the Hawaii housing authority for the designated purpose under [chapters] chapter 356[, 358,] or 359, only upon the finding that the public housing project found necessary does not qualify for federal aid or participation.”

SECTION 15. Section 220-1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For the purposes of this section, “aquaculture” means all activities as defined in section 219-2, when carried out by a qualified [aquaculturist] aquaculturalist as defined by section 219-2.”

SECTION 16. Section 222-2, Hawaii Revised Statutes, is amended to read as follows:

“§222-2 Duties of the center. The center shall:

- (1) Serve as a research arm of the commission on the year 2000, the commission on [manpower and full employment,] employment and human resources, and such other public agencies as may properly require its services and assistance in locating research experts for particular studies and in working out the dimensions and contractual arrangements for such studies, the costs and final decisions of which shall be the responsibility of the requesting agencies.
- (2) Encourage and promote invention and experimentation in futures study, planning, and design.
- (3) Maintain an inventory of studies, research, and other information, including groups or persons concerned with futures study, planning, and design applicable to the State.
- (4) Engage in the development and acquisition of models, techniques, and other tools, and capability for the effective monitoring, measuring, and forecasting of crucial aspects of Hawaii's socio-economic environmental system over the immediate, intermediate, and long range future, including the design of systems to assist and stabilize the State's construction industry.”

SECTION 17. Section 232-13, Hawaii Revised Statutes, is amended to read as follows:

“§232-13 Hearing de novo; bill of particulars. The hearing before the tax appeal court shall be a hearing de novo. Irrespective of which party prevails in the board of review the assessment as made by the assessor, or if increased by the board, the assessment as so increased, shall be deemed prima facie correct. Each party shall have the right to introduce, or the tax appeal court [may], of its own motion, may require the taking of such evidence in relation to the subject pending as in the court's discretion may be deemed proper. The court [shall], in the manner provided in section [232-8,] 232-16, shall determine all questions of fact and all questions of law, including constitutional questions, involved in the appeal.

The jurisdiction of the tax appeal court is limited to the amount of valuation or taxes, as the case may be, in dispute as shown on the one hand by the amount claimed by the taxpayer or county and on the other hand by the amount of the assessment, or if increased by the board the assessment as so increased.

Assessments for the same year upon other similar property situated in the State shall be receivable in evidence upon the hearing.

Upon the application of either the taxpayer, the county, or the assessor, the judge of the tax appeal court, upon notice, may allow and direct a bill of particulars of the claim of either the taxpayer, the county, or the assessor to be delivered to the other, and in case of default the judge shall preclude the person so defaulting from giving evidence of the part or parts of [his] the person's affirmative claim of which particulars have not been delivered.”

SECTION 18. Section 235-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each individual and corporate resident taxpayer who files an individual or corporate net income tax return for a taxable year, may claim a tax credit under this section against the Hawaii [State] state individual or corporate

net income tax. The tax credit may be claimed for any solar or wind energy device or heat pump in an amount not to exceed ten per cent of the total cost of the device or heat pump; provided that the tax credit shall apply only to the actual cost of the solar or wind energy device or the heat pump, their accessories, and installation and shall not include the cost of consumer incentive premiums unrelated to the operation of the solar or wind energy device or the heat pump offered with the sale of the solar or wind energy device or the heat pump. The credit shall be claimed against net income tax liability for the year in which the solar or wind energy device or the heat pump was purchased and placed in use; provided the tax credit shall be applicable only with respect to solar devices, which are erected and placed in service after December [12,] 31, 1974, but before December 31, 1992; provided further that in the case of wind energy devices and heat pumps, the tax credit shall be applicable only with respect to wind energy devices and heat pumps which are installed and placed in service after December 31, 1980, but before December 31, 1992. Tax credits which exceed the taxpayer's income tax liability may be used as a credit against [his] the taxpayer's income tax liability in subsequent years until exhausted. If federal energy tax credits are not extended beyond December 31, 1985, the state tax credit shall be increased to fifteen per cent of the total cost from the time of expiration of the federal tax credit to December 31, 1992."

SECTION 19. Section 241-6, Hawaii Revised Statutes, is amended to read as follows:

"§241-6 Chapter 235 applicable. All of the provisions of chapter 235 not inconsistent with this chapter, and which may be appropriately applied to the taxes, persons, circumstances, and situations involved in this chapter, including without prejudice to the generality of the foregoing, sections [235-91,] 235-98, 235-99, and 235-101 to 235-118, shall be applicable to the taxes imposed by this chapter, and to the assessment and collection thereof. Any tax refund payable under section 235-110, hereby made applicable to the taxes imposed by this chapter, shall be made in the manner provided in section 231-23(d)."

SECTION 20. Section 246-12, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The approval by the director of the petition to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of [his] the owner's land to a use other than agriculture for a minimum period of ten years or twenty years as the case may be, automatically renewable indefinitely, subject to cancellation as follows:

- (1) In the case of a ten-year dedication, the owner [may], after the ninth year and years thereafter, may give notice of cancellation by filing with the director, a written notice of cancellation, on or before April 9¹ to be effective as of January 1 of the following [[tax]] year;
- (2) In the case of a twenty-year dedication, the owner [may], during the nineteenth year and years thereafter, may give notice of cancellation as provided by this subsection;
- (3) In the case of a change in major land use classification not as a result of a petition by any property owner or lessee such that the owner's land is placed within an urban district, the dedication may be [cancelled] canceled within sixty days of the change by the owner.

Upon any conveyance or any change in ownership during the period of dedication, the land shall continue to be subject to the terms and conditions of the dedication unless a release has been issued by the director."

SECTION 21. Section 246-53, Hawaii Revised Statutes, is amended to read as follows:

"§246-53 Remission of taxes on acquisition by government. Whenever any real property is acquired for public purposes by the United States, the State, or any political subdivision thereof, and whenever any government lease or other tenancy shall terminate, the tax assessor and the tax collector of the district in which the property is situated are authorized to remit the taxes due thereon for the balance of the taxation period or year from and after the date of acquisition of the property, or the termination of the government lease or other tenancy, as the case may be.

In case the State or any county takes possession of real property which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land by the State or such county, taxes are authorized to be remitted as provided in sections [101-35] 101-36 to 101-39, subject to section 101-39(1).

In case the owner of real property grants to the State or any county thereof a right of entry with respect to such real property, and the State or county enters into possession under the authority of the right of entry with intention to acquire the fee simple estate therein and to devote the real property to public use, the State or such county shall certify to the appropriate tax official the date upon which it took possession, and upon receipt of the certificate the tax official is authorized to remit the real property tax on the parcel of land or portion of a parcel of land so coming into the possession of the State or county for the balance of the taxation period which is subsequent to the date of possession.

In case the United States takes possession of real property which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land, taxes are authorized to be remitted for the balance of the taxation period or year after such taking, as provided in this paragraph. The remission shall be allowed conditionally upon the presentation to the director of taxation, or to the tax assessor or tax collector of the district in which the property is situated, of a written notice and agreement, signed by the person, or one or more of the persons, owning the land, stating the date of such taking of possession by the United States, and agreeing that out of the first funds received by such owner or owners from such condemnation there shall be paid sufficient moneys to discharge the lien for any real property taxes existing upon the land prorated up to and including the date of such taking possession of the property; provided that the notice may be accompanied by payment of the prorated amount of taxes in lieu of such agreement. Section 101-39 is hereby made applicable to such land and the owner or owners thereof and to the conditional remission authorized by this paragraph. It is further provided that in the event the prorated taxes up to the time of such taking possession shall not be paid by the owner or by one or more of the owners of the land within ten days after receipt by such owner or owners of the compensation for the condemnation, or within such additional time as shall be allowed by the tax assessor, collector, or director, then the conditional remission of taxes shall be void, and such owner or owners shall be liable for all taxes, penalties, and interest which would have accrued had no such conditional remission been allowed."

SECTION 22. Section 246-55, Hawaii Revised Statutes, is amended to read as follows:

“§246-55 Tax liens; co-owners’ rights; foreclosure; limitation. Every tax due upon real property, as defined by section 246-1, shall be a paramount lien upon the property assessed, which lien shall attach as of July 1 in each tax year and shall continue for six years. If proceedings for the enforcement or foreclosure of the lien are brought within the applicable period hereinabove designated, the lien shall continue until the termination of the proceedings or the completion of the foreclosure sale.

In case of cotenancy, if one cotenant pays, within the period of the aforesaid government lien, all of the real property taxes, interest, penalties, and other additions to the tax, due and delinquent at the time of payment, [he] the cotenant shall have, pro tanto, a lien on the interest of any noncontributing cotenant upon recording in the bureau of conveyances, within ninety days after the payment so made by the cotenant, a sworn notice setting forth the amount claimed, a brief description of the land affected by tax key or otherwise, sufficient to identify it, the tax year or years, and the name of the cotenant upon whose interest such lien is asserted. When a notice of such tax lien is recorded by a cotenant, the registrar shall forthwith cause the same to be indexed in the general indexes of the bureau of conveyances. In case the land affected is registered in the land court the notice shall also contain a reference to the number of the certificate of title of such land and shall be filed and registered in the office of the assistant registrar of the land court, and the registrar, in [his] the registrar’s capacity as assistant registrar of the land court, shall make a notation of the filing thereof on each land court certificate of title so specified.

The cotenant’s lien shall have the same priority as the lien or liens of the government for the taxes paid by [him,] the cotenant, and may be enforced by an action in the nature of a suit in equity. The lien shall continue for three years after recording or registering, or until termination of the proceedings for enforcement thereof if such proceedings are begun and notice of the pendency thereof is recorded or filed and registered as provided by law, within the period.

The director or [his] the director’s subordinate, in case of a government lien, and the creditor cotenant, in case of a cotenant’s lien, [shall,] at the expense of the debtor, upon payment of the amount of the lien, shall execute and deliver to the debtor a sworn satisfaction thereof, including a reference to the name of the person assessed or cotenant affected as shown in the original notice, the date of filing of the original notice, a description of the land involved, and the number of the certificate of title of such land if registered in the land court, which, when recorded in the bureau of conveyances or filed and registered in the office of the assistant registrar of the land court, [shall,] in the case of a cotenant’s lien, which contains the reference to the book and page of the original lien, shall be entered in the general indexes of the bureau of conveyances, and if a notation of the original notice was made on any land court certificate of title the filing of such satisfaction shall also be noted on the certificate.

This section as to cotenancy shall apply, as well, in any case of ownership by more than one assessable person.

Upon enforcement or foreclosure by the government, in any manner whatsoever, of any such real property tax lien, all taxes of whatsoever nature and howsoever accruing due at the time of the foreclosure sale from the taxpayer against whose property such tax lien is so enforced or foreclosed shall be satisfied as far as possible out of the proceeds of the sale remaining after payment of (1) the costs and expenses of the enforcement and foreclosure including a title search, if any, (2) the amount of subsisting real property tax

liens, and (3) the amount of any recorded liens against the property, in the order of their priority.

The liens may be enforced by action of the tax collector in the circuit court of the judicial circuit in which the property is situate, and jurisdiction is conferred upon the circuit courts to hear and determine all proceedings brought or instituted to enforce and foreclose such tax liens, and the proceedings had before the circuit courts shall be conducted in the same manner and form as ordinary foreclosure proceedings. If the owners or claimants of the property against which a lien is sought to be foreclosed are at the time without the State or cannot be served within the State, or if the owners are unknown, and the fact shall be made to appear by affidavit to the satisfaction of the court, and it shall in like manner appear prima facie that a cause of action exists against such owners or claimants or against the property described in the complaint or that such owners or claimants are necessary or proper parties to the action, the court may grant an order that the service may be made in the manner provided by sections 634-23 to [634-28.] 634-27.

In any such case it shall not be necessary to obtain judgment and have execution issued and returned unsatisfied, before proceeding to foreclose the lien for taxes in the manner herein provided."

SECTION 23. Section 246-63, Hawaii Revised Statutes, is amended to read as follows:

"§246-63 Disposition of surplus moneys. The officer charged with the duty of distributing the surplus arising from a tax sale under sections 246-56 to 246-61 shall pay from the surplus all taxes, including interest and penalties, of whatsoever nature and howsoever accruing, as provided in section 246-55, and further [he] the officer may pay from the surplus the cost of a search of any records where such search is deemed advisable by [him] the officer to ascertain the person or persons entitled to the surplus; provided[,] nothing herein contained shall be construed to require the tax collector to make or cause any such search to be made. If the officer is in doubt as to the person or persons entitled to the balance of the fund [he] the officer may refuse to distribute the surplus and any claimant may sue the officer or [his] the officer's successor in office in the circuit court in the circuit within which the property sold was situated. The officer may require the claimants to interplead, in which event [he] the officer shall state the names of all claimants known to [him,] the officer, and shall cause them to be made parties to the action. If in [his] the officer's opinion there may be other claimants who are unknown, the officer may apply for an order or orders joining all persons unknown having or claiming to have any legal or equitable right, title, or interest in the moneys or any part thereof or any lien or other claim with respect thereto.

Any orders of the court or summons in the matter may be served as provided by law or the rules of court, and all persons having any interest in the moneys who are known, including the guardians of such of them as are under legal age or under any other legal disability (and if any one or more of them is under legal age or under other legal disability and without a guardian the court shall appoint a guardian ad litem to represent them therein) shall have notice of the action by personal service upon them. All persons having any interest in the moneys whose names are unknown or who if known do not reside within the State, or for any reason cannot be served with process within the State shall have notice of the action as provided by sections 634-23 to [634-28.] 634-27, except that any publication of summons shall be in at least one newspaper published in the State and having a general circulation in the circuit within which the

property sold was situated, and the form of notice to be published shall provide a brief description of the property which was sold.

All expenses incurred by the officer shall be met out of the surplus moneys realized from the sale."

SECTION 24. Section 261-7, Hawaii Revised Statutes, is amended to read as follows:

"§261-7 Operation and use privileges. (a) [Under department operation.] In operating an airport or air navigation facility owned or controlled by the department of transportation, or in which it has a right or interest, the department may enter into contracts, leases, licenses, and other arrangements with any person:

- (1) Granting the privilege of using or improving the airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes;
- (2) Conferring the privilege of supplying goods, commodities, things, services, or facilities at the airport or air navigation facility;
- (3) Making available services, facilities, goods, commodities, or other things to be furnished by the department or its agents at the airport or air navigation facility; or
- (4) Granting the use and occupancy on a temporary basis by license or otherwise any portion of the land under its jurisdiction which for the time being may not be required by the department so that it may put the area to economic use and thereby derive revenue therefrom.

All the arrangements shall contain a clause that the land may be repossessed by the department when needed for aeronautics purposes upon giving the tenant temporarily occupying the same not less than thirty days' notice in writing of intention to repossess.

(b) Except as otherwise provided in this section, in each case mentioned in [paragraphs] subsection (a)(1), (2), (3), and (4), the department may establish the terms and conditions of the contract, lease, license, or other arrangement, and may fix the charges, rentals, or fees for the privileges, services, or things granted, conferred, or made available, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature. Such charges shall be reasonable and uniform for the same class of privilege, service, or thing.

(c) The department shall enter into a contract with no more than one person ("contractor") for the sale and delivery of in-bond merchandise at Honolulu International Airport, in the manner provided by law. The contract shall confer the right to operate and maintain commercial facilities within the airport for the sale of in-bond merchandise and the right to deliver to the airport in-bond merchandise for sale to departing foreign-bound passengers.

The department shall grant the contract pursuant to the laws of this State and may take into consideration:

- (1) The payment to be made on in-bond merchandise sold at Honolulu International Airport and on in-bond merchandise displayed or sold elsewhere in the State and delivered to the airport;
- (2) The ability of the applicant to comply with all federal and state rules and regulations concerning the sale and delivery of in-bond merchandise; and
- (3) The reputation, experience, and financial capability of the applicant.

The department shall actively supervise the operation of the contractor to insure its effectiveness. The department shall develop and implement such guidelines as it may find necessary and proper to actively supervise the operations of the contractor, and shall include guidelines relating to the department's review of the reasonableness of contractor's price schedules, quality of merchandise, merchandise assortment, operations, and service to customers.

Apart from the contract described [above,] in this subsection, the department shall confer no right upon nor suffer nor allow any person to offer to sell, sell, or deliver in-bond merchandise at Honolulu International Airport; provided that this section shall not prohibit the delivery of in-bond merchandise as cargo to the Honolulu International Airport.

[(b) Under other operation.] (d) The department [may], by contract, lease, or other arrangement, upon a consideration fixed by it, may grant to any qualified person the privilege of operating, as agent of the State or otherwise, any airport owned or controlled by the department; provided that no such person shall be granted any authority to operate the airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the department might not have undertaken under subsection (a) [of this section].

[(c) Miscellaneous fees and charges.] (e) The department may fix and regulate, from time to time, reasonable landing fees for aircraft and other reasonable charges for the use and enjoyment of the airports and the services and facilities furnished by the department in connection therewith, including the establishment of a statewide landing fee which may vary among different classes of users such as foreign carriers, domestic carriers, inter-island carriers, air taxi operators, and such other classes as may be determined by the director of transportation, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature.

[(d) Liens.] (f) To enforce the payment of any charges for repairs or improvements to, or storage or care of any personal property made or furnished by the department or its agent in connection with the operation of an airport or air navigation facility owned or operated by the department, the department shall have liens on the property, which shall be enforceable by it as provided by sections 507-18 to 507-22.

[(e) Buildings and land areas for general aviation activities; developmental rates.] (g) The department [may] from time to time may establish developmental rates for buildings and land areas used exclusively for general aviation activities at rates not less than fifty per cent of the fair market rentals of the buildings and land areas and may restrict the extent of buildings and land areas to be utilized."

SECTION 25. Section 261-33, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In addition to amounts otherwise authorized by [[sections 261-31 to 261-36],] this section and section 261-32, the director shall make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under subsection (a) [of this section] which dwelling was actually and lawfully occupied by such individual or family for not less than ninety days prior to the first written offer by the department of transportation for acquisition of such property. Such payment, not to exceed \$1,500, shall be the amount which is necessary to enable such person to lease or rent for a period not to exceed two

years, or to make the down payment on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities.”

SECTION 26. Section 261-34, Hawaii Revised Statutes, is amended to read as follows:

“[[§261-34]] **Not treated as income.** No payment received under [[sections [261-31 to 261-36]] 261-32 and 261-33 shall be considered as income for purposes of the state income tax law; nor shall such payments be considered as income to any recipient of public assistance, and such payment shall not be deducted from the amount of aid to which the recipient would otherwise be entitled to under the state welfare programs.”

SECTION 27. Section 264-32, Hawaii Revised Statutes, is amended to read as follows:

“§264-32 **Utility facility defined.** The term “utility facility” wherever used in [sections 264-32 to 264-34,] section 264-33 means and includes any of the following: any surface, underground, or overhead water mains, fire hydrants, gas mains, sewer mains, pipes (including fuel oil lines), conduits, [manholes,] utility holes, poles, wires, cables, lines, street lighting structures, or other structures or equipment, and the appurtenances thereto, owned by any privately owned public utility or by any county or by any police department or board of water supply of a county and used in connection with the producing or the furnishing of water, gas, light, electric power, communications, transportation, or other public utility services.”

SECTION 28. Section 271G-3, Hawaii Revised Statutes, is amended to read as follows:

“[[§271G-3]] **Administration; governing provisions of other acts.** This chapter shall be administered by the public utilities commission of the State and the provisions of this chapter and of chapter 269, not inconsistent with this chapter, shall govern its administration; provided that sections [269-4, 269-11, and] 269-16 to 269-28 shall not[, apply in any respect[, apply] to the regulation of water carriers.”

SECTION 29. Section 281-37, Hawaii Revised Statutes, is amended to read as follows:

“§281-37 **Sales of alcohol.** No alcohol shall be sold, bartered, or otherwise furnished by any person whether holding a license to manufacture or sell the same under this chapter or not, except to a person holding a license to resell the same, or to a person holding a purchase permit from the liquor commission to purchase the same.

Permits to purchase alcohol may be issued by the commission, without fee or charge therefor, to any person holding a license under the laws of the State to sell poisonous drugs, or to any person who in the opinion of the commission requires the use thereof for [a] pharmaceutical or other purposes in the bona fide treatment of patients of such person, or for rubbing, cleansing, or as a preservative, or for any bona fide scientific purpose, but in no case for use for beverage purposes.

On every sale of alcohol the seller, after first being satisfied that the person presenting a permit is the person therein named, shall make a record on the permit and sign the same showing the name of the purchaser, the date, the

quantity sold, and the purpose declared as to the intended use thereof. [He] The seller shall also keep a separate record of the same matters. If in any permit there is a prescribed limit as to the quantity purchasable thereunder at any one time or in the aggregate in any given period of time, the permit shall not be honored beyond its terms.

The commission [may], by rules and regulations, where deemed appropriate, may provide for the sale of alcohol upon prescriptions of duly licensed physicians in lieu of the permits above mentioned."

SECTION 30. Section 286-56, Hawaii Revised Statutes, is amended to read as follows:

"§286-56 Official cars. All motor vehicles owned by any foreign government or by a consul or other official representative thereof, or by the United States government, or by the State or any political subdivision thereof, shall be registered as herein required by the person having the custody thereof, and the custodian shall display official registration by distinguishing marks thereon which shall be furnished by the director of finance, free of charge, and where motor vehicles are owned by the State or any of its municipal subdivisions, the motor vehicle shall bear the inscription provided for in sections [105-1 to 105-10.] 105-6 to 105-9."

SECTION 31. Section 286-65, Hawaii Revised Statutes, is amended to read as follows:

"§286-65 Surrender, transfer, and disposal of special plates. Upon the transfer of ownership of the passenger motor vehicle, or upon the expiration or revocation of the amateur radio station license, the holder of the special license plates shall surrender them to the administrator of the county civil defense agency who shall retain the plates as long as they are valid. The regulation number plates shall be securely fastened to the passenger motor vehicle as provided in [sections] section 249-7 [and 249-8]. Upon reapplication, an amateur radio station licensee may be reissued [his] the licensee's special license plates as provided in this part at no additional cost."

SECTION 32. Section 286-68, Hawaii Revised Statutes, is amended to read as follows:

"§286-68 Interpretation of part. Sections 286-62 to 286-69 are supplementary to any statute of the State regarding automobile number or license plates and nothing herein shall be construed as abridging or amending such laws except as herein provided for the use of the special license plates in lieu of the [regulations] regulation number plates prescribed by law."

SECTION 33. Section 287-35, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within the State, or a bond with at least two individual sureties each owning real estate within the State, and together having equities equal in value to at least twice the amount of the bond, which real estate shall be scheduled in the bond approved by the insurance commissioner, which bond shall be conditioned for payment of the amounts specified in section [287-1.] 294-10(a). The bond shall be filed with the administrator and shall not be cancelable except after ten days' written notice to the administrator. The bond shall constitute a lien in favor of the State upon the real estate so scheduled of any surety, which lien shall exist in favor of any

holder of a final judgment against the person who has filed the bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after the bond was filed upon the filing of notice to that effect and the filing of a certified copy of the final judgment in the office of the registrar of conveyances.”

SECTION 34. Section 292-11, Hawaii Revised Statutes, is repealed.

SECTION 35. Section 296-1, Hawaii Revised Statutes, is amended to read as follows:

“§296-1 Definitions. As used in chapters 296 to [302,] 301, the following terms have the following meanings unless the context indicates otherwise:

“Board” means the board of education.

“Councilor” means a member of a district school advisory council.

“Department” means the department of education.

“Educational officers” refers to principals, vice-principals, and professional employees of the State and district offices of the department except those in the classified service.

“Member” means a member of the board of education.

“Superintendent” means the superintendent of education.

“Teacher” means a person whose duties in the educational system are primarily teaching or instruction of students or related activities centered primarily on students and who is in close and continuous contact with students and shall include, but not be limited to, classroom teachers, school librarians, counselors, registrars, and special education teachers.”

SECTION 36. Section 296-60, Hawaii Revised Statutes, is amended to read as follows:

“§296-60 Findings and declaration of necessity. The legislature finds that:

- [(a)] (1) The ideal of equal access to education in our public school system cannot be achieved when our students are required to assume stereotyped sexual roles. Under this sterile system, female students have been channeled into courses like homemaking or into career choices such as teaching or nursing or into extracurricular activities such as cheerleading. The male students have been expected to take shop or to select career choices such as law or engineering or to participate in sports.
- [(b)] (2) One of the striking trends of recent times has been the participation of women and men in activities, professions, and life styles that were previously considered to be the exclusive province of one particular sex. Our education system must reflect those changes. Curricular and extracurricular activities in our schools must be accessible to all students. It should be the goal of our public schools to allow each individual to develop his or her particular talents or interests.”

SECTION 37. Section 305A-4, Hawaii Revised Statutes, is amended to read as follows:

“§305A-4 Vocational education coordinating advisory council. There is established a vocational education coordinating advisory council which shall serve in an advisory capacity to the board of regents. The council shall consist of

eleven members, nine appointed and two ex officio voting members. Of the nine appointed members, three shall be appointed from the board of regents of the University of Hawaii by the [chairman] chairperson of that body, three shall be appointed from the board of education by the [chairman] chairperson of that body, and three shall be appointed from the state commission on [manpower and full employment] employment and human resources by the [chairman] chairperson of that body. Of the three members appointed from the commission on [manpower and full employment,] employment and human resources, one member shall represent management, one member shall represent labor, and the third shall represent the public. Of the two ex officio members one shall be the president of the University of Hawaii and the other shall be the superintendent of education.

Of the three members first appointed by each appointing authority, other than the [chairman] chairperson of the board of education, one shall be appointed for two years, one shall be appointed for three years, and one shall be appointed for four years. In the case of the members appointed from the board of education, the terms of such members shall be for their remaining terms as members of the board of education. Upon the expiration of the terms of the first members, their successors shall serve for a term of four years. Vacancies shall be filled by the appropriate appointing authority for the unexpired term.

The council shall elect a [chairman] chairperson and such other officers as it deems necessary. Section 92-15 shall apply. The members of the council shall serve without pay but shall be entitled to their traveling expenses within the State when attending meetings of the council or when actually engaged in business relating to the work of the council."

SECTION 38. Section 306-16, Hawaii Revised Statutes, is amended to read as follows:

"§306-16 Limitation of authority. Notwithstanding any other provision to the contrary, nothing in this chapter shall be construed to authorize the board of regents to incur any indebtedness contrary to article [VI, section 3,] VII, sections 12 and 13, of the Constitution of the State or to incur any indebtedness which would not qualify for exclusion from the total indebtedness of the State under [clause (b) of section 3 of said article VI.] section 13(2), article VII."

SECTION 39. Section 321-175, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Commencing on September 1, 1980, and every four years thereafter, the children's mental health services branch, on or before September 1 of each four-year cycle, shall develop and present to the governor and the legislature, as well as release for public inspection and comment, a current statewide children's mental health services plan which shall include:

- (1) A survey of the children and youth in the State who are (A) in need of and (B) receiving mental health services showing the total number of such children and youth and their geographic distribution;
- (2) Identification of the public and private providers of mental health services to children and youth;
- (3) Identification of the criteria and standards for the treatment to be received by [emotion-disturbed] emotionally disturbed or mentally ill children and youth;
- (4) A program for the recruitment, orientation, and inservice training of personnel in community mental health services to children and

- youth, and to allied fields, including participation, as appropriate, by institutions of higher learning, state and local agencies, and other public and private agencies having relevant expertise;
- (5) A description of the provisions for prevention, early identification, diagnosis, screening, treatment, and rehabilitation (including, with regard to treatment and rehabilitation, services provided through inpatient, outpatient, and community residential facilities) of children and youth in need of mental health services;
 - (6) An implementation plan for providing mental health services to all children and youth in the State in each of the above mentioned areas; and
 - (7) Any additional matters which may be necessary or appropriate, including recommendations for amendment of laws, changes in administrative practices and patterns of organization, and changes in levels and patterns of financial support relating to children's mental health services."

SECTION 40. Section 323D-2, Hawaii Revised Statutes, is amended by amending the definition of "health care provider" to read as follows:

" "Health care provider" means a health care facility, physician, dentist licensed under chapter 448, chiropractor licensed under chapter 442, optometrist [registered] licensed under chapter 459, podiatrist licensed under chapter 463E, psychologist [certified] licensed under chapter 465, occupational therapist subject to chapter 457G, and physical therapist licensed under chapter [321.] 461J."

SECTION 41. Section 328-9, Hawaii Revised Statutes, is amended to read as follows:

"§328-9 Foods deemed adulterated when. A food shall be deemed to be adulterated:

- (1) (A) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but [in case] if the substance is not an added substance, the food shall not be considered adulterated under this clause if the quantity of the substance in the food does not ordinarily render it injurious to health; or
- (B) (i) If it bears or contains any added poisonous or added deleterious substance, other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive, which is unsafe within the meaning of section [328-13(1);] 328-13(a); or
- (ii) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the Federal Act as amended; or
- (iii) If it is or it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Act as amended;

provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under section 408 of the Federal Act, and the raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide

- chemical remaining in or on such processed food [shall], notwithstanding section 328-13 and clause (iii) of this paragraph (1), shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready-to-eat, is not greater than the tolerance prescribed for the raw agricultural commodity; or
- (C) If it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or
 - (D) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or
 - (E) If it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or
 - (F) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;
- (2) (A) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or
 - (B) If any substance has been substituted wholly or in part therefor; or
 - (C) If damage or inferiority has been concealed in any manner; or
 - (D) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is;
- (3) If it is confectionery and:
 - (A) Has partially or completely embedded therein any nonnutritive object; provided[,] that this clause shall not apply in the case of any nonnutritive object if, in the judgment of the director of health, as provided by [regulations,] rules, promulgated under this part, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health;
 - (B) Bears or contains any alcohol other than alcohol not in excess of one-half of one per cent by volume derived solely from the use of flavoring extract; or
 - (C) Bears or contains any nonnutritive substance; provided[,] that this clause shall not apply to a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of the confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of this part; and provided further[,] that the director [may], for the purpose of avoiding or resolving uncertainty as to the application of this clause, may issue [regulations] rules under this part, allowing or prohibiting the use of particular nonnutritive substances;

- (4) If it is or bears or contains any color additive which is unsafe within the meaning of the Federal Act.”

SECTION 42. Section 333-52, Hawaii Revised Statutes, is amended to read as follows:

“§333-52 Part [III] IIIA applicable to certain institutions. The provisions of part [III] IIIA of this chapter with respect to mentally retarded persons and their commission, admission, detention, discharge, and parole, shall be applicable, insofar as the same may be appropriate, to any licensed institution for the care of the mentally retarded persons, to the same extent, as nearly as may be, as in the case of Waimano training school and hospital and persons committed or admitted thereto. Wherever in part [III.] IIIA, provision is made for commitment or admission to Waimano training school and hospital, the provision shall be deemed to authorize the commitment or admission to any licensed institution mentioned in this section, in the same manner, and with the same effect, and subject to the same conditions, as nearly as may be, as in the case of persons committed or admitted to Waimano training school and hospital, provided that the commitment or admission is consented to in writing by the guardian or relative having the custody of the person concerned and by the superintendent of the licensed institution. The superintendent of the institution [may], with the approval of the director of health, may parole or discharge any inmate, if it appears that the inmate will be properly cared for or that [his] the inmate's detention is no longer necessary for [his] the inmate's own welfare or the safety of the public.”

SECTION 43. Section 334-1, Hawaii Revised Statutes, is amended by amending the definition of “judge” to read:

““Judge” means any judge of the family court or per diem judge appointed by the chief justice as provided in section [604-1.] 604-2.”

SECTION 44. Section 334-123, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person may file a petition with the family court alleging that another person meets the criteria for involuntary outpatient treatment. The petition shall state:

- (1) Each of the criteria numbered (1) through (6) for involuntary outpatient treatment, as set out in section 334-121;
- (2) Petitioner's good faith belief that the subject of the petition meets each of criteria numbered (1) through (4);] set forth in section 334-121;
- (3) Facts which support petitioner's good faith belief that the subject of the petition meets each of the criteria numbered (1) through (4);] set forth in section 334-121, provided that the hearing on the petition need not be limited to the stated facts; and
- (4) That the subject of the petition is present within the county where the petition is filed.

The petition shall be executed subject to the penalties of perjury. The petition need not express any belief, or state any supporting facts, with reference to the criteria [(5) and (6),] set forth in section 334-121(5) and (6), but all six criteria will be addressed at the hearing.”

SECTION 45. Section 338-17.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If a delayed certificate of birth is rejected under section [338-15,] 338-16, a petition may be filed with the circuit court for an order establishing a record of the date and place of the birth and the parentage of the person whose birth is to be registered.”

SECTION 46. Section 353-6, Hawaii Revised Statutes, is amended to read as follows:

“§353-6 Duties of director; visitation of correctional facilities, etc. The director of social services [and housing] or [his] the director's agent shall visit all state correctional facilities and inquire into the management and operation of the same, and the care, education, recreational, vocational training, employment opportunities, and maintenance of committed persons.”

SECTION 47. Section 353-6.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§353-6.5[]] Establishment of correctional diagnostic center. The director of social services [and housing] shall establish a correctional diagnostic center which shall be staffed by a team of psychiatrists, social and correctional workers, technicians, and other personnel as may be necessary. Diagnostic examinations shall be undertaken at the center for the purpose of determining which correctional treatment program and facility will best rehabilitate the prisoner. The correctional diagnostic team services of the diagnostic center shall be available to the district and circuit courts of Hawaii when requested by any presiding judge.”

SECTION 48. Section 353-7, Hawaii Revised Statutes, is amended to read as follows:

“§353-7 Access to correctional facilities and records; instituting of inquiries and securing of information. The Hawaii paroling authority and every member thereof and the director of social services [and housing] shall at all times have free access to all correctional facilities throughout the State, wherein persons convicted of crime are confined, and to all records and books kept in connection therewith, and may institute inquiries about any committed person whether confined or on parole.

All circuit judges, district judges, prosecuting attorneys, sheriffs, police officers, and other court and corrections officials and employees shall furnish, when called upon by the paroling authority or director, all information that may be possessed concerning any committed person.

Upon the refusal of any person in charge of any such correctional facility to give free access thereto or to any records or books kept in connection therewith, or of any such officer, district judge, sheriff, official, or employee to furnish such information, the paroling authority or director may make informal application in writing to any circuit court, reciting the facts and requesting an order directing the person concerned to give such access, or furnish such information and the court, after such reasonable notice to the person as [he] the court shall direct, shall proceed to hear the application and shall have power to make such order as may appear proper. In case of the refusal of a circuit judge to furnish information as in this section required, the paroling authority or director may apply to the supreme court for relief in the same manner as in the case of an application to a circuit court [hereinabove provided for.] as provided in this section. The circuit courts and the supreme court are given jurisdiction and all powers necessary for the purposes of this section.

In all investigations made by the paroling authority or director and in all proceedings before it or [him,] the director, the paroling authority and each member thereof and the director shall have the same powers respecting administering oaths, compelling the attendance of witnesses, and the production of documentary evidence and examining witnesses as are possessed by circuit courts. In case of disobedience by any person of any order of the paroling authority or any member thereof or the director or of any subpoena issued by it or [him] the director or of the refusal of any witness to testify to any matter regarding which [he] the witness may be questioned lawfully, any circuit judge, on application by the paroling authority or a member thereof or the director, shall compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the circuit courts and shall be paid by the State on vouchers approved by the director out of any appropriation or funds available for the expenses of the department of social services and housing."

SECTION 49. Section 353-25, Hawaii Revised Statutes, is amended to read as follows:

"§353-25 Compensation for labor or training by committed persons. Every committed person who is working within a [State] state correctional facility or who is in such training or educational programs as the director or [his] the director's agent, pursuant to law prescribes, may be allowed such graduated sums of money as the director of social services [and housing] by rule may determine. Any committed person engaged in work, training, or education pursuant to this section or work pursuant to [chapters] chapter 353 or 354 shall not be affected by chapter 386."

SECTION 50. Section 353-48, Hawaii Revised Statutes, is amended to read as follows:

"§353-48 Others by permission. None but official visitors shall be allowed to visit any state correctional facility or to have any oral or written communication with the committed person, unless with the written permission of the administrator of the correctional facility or the director of social services, nor shall any visitor deliver to or receive from any committed person any letter or message except with permission granted by the administrator of a state correctional facility pursuant to rules adopted by the director of social services [and housing] or facility administrator. Unauthorized communications, passing of documents, or visiting is a [grade] class C felony within the meaning of title 37."

SECTION 51. Section 359-7, Hawaii Revised Statutes, is amended to read as follows:

"§359-7 Housing, government aid, extension of powers. The State, its political subdivisions and agencies shall have the same rights and powers to cooperate with and aid the authority with respect to the development and administration of housing under this part that the State, its political subdivisions and agencies respectively have under and pursuant to chapter [358] 356 for the purposes of aiding and cooperating in the planning, construction, and operation of slum clearance and housing projects."

SECTION 52. Section 359-34, Hawaii Revised Statutes, is amended to read as follows:

“§359-34 Housing authority, powers, extension of powers. Every housing project undertaken, acquired, constructed, or carried out after April 1, 1959, under this part shall be first approved by the governor. If so approved, the housing project or projects shall be selected, located anywhere within the State, prepared, undertaken, constructed, carried out, managed, and operated by the Hawaii housing authority under this part, and, when applicable, part IV of this chapter, and in so doing, the authority shall have all of the rights, powers, privileges, and immunities that the authority has under chapters 356[, 358,] and 360 and any law in amendment thereof or in addition thereto, (including, without limitation to the generality of the foregoing, the power to make and execute contracts, the power of eminent domain, the power to issue bonds and other obligations and give security therefor), in the same manner and to the same extent as though all the provisions of law applicable to slum clearance and housing projects for persons of low income were applicable to the housing project or projects undertaken, acquired, constructed, operated, and maintained under this part; provided[.] (1) that housing undertaken, acquired, constructed, operated, or maintained under this part shall not be subject to any of the provisions of sections 356-34 and 356-35; (2) that the authority may make payments, in such amounts as it finds necessary or desirable, for any services, facilities, works, privileges, or improvements furnished for or in connection with the housing project or projects; and (3) that every housing project undertaken under this part shall be subject to section 356-20. The authority, in addition to its other powers and without limitation to the generality of the foregoing, shall have the power, subject to this part, chapter 360 and, if applicable, part IV of this chapter, to manage and operate the housing project or projects and to determine all policies and to make all rules and regulations for such management and operations.”

SECTION 53. Section 359-35, Hawaii Revised Statutes, is amended to read as follows:

“§359-35 Housing project, government aid, extension of powers. The State, its political subdivisions and agencies shall have the same rights and powers to cooperate with and aid the Hawaii housing authority with respect to the construction, operation, and maintenance of the housing project or projects under this part that the State, its political subdivisions and agencies respectively have under and pursuant to chapter [358] 356 for the purposes of aiding and cooperating in the planning, construction, and operation of slum clearance and housing projects.”

SECTION 54. Section 359-41, Hawaii Revised Statutes, is amended to read as follows:

“§359-41 Additional powers. The powers conferred upon the Hawaii housing authority by this part shall be in addition and supplemental to the powers conferred upon it by chapter 356 [and chapter 358] and any other law, and nothing herein shall be construed as limiting any powers, rights, privileges, or immunities so conferred upon it.”

SECTION 55. Section 359-61, Hawaii Revised Statutes, is amended to read as follows:

“[[§359-61[]] Government aid; extension of powers. The State, its political subdivisions and agencies[.] shall have the same rights and powers to cooperate with and aid the Hawaii housing authority with respect to the development and administration of housing projects that the State, its political

subdivisions and agencies respectively have under and pursuant to chapter [358] 356 for the purposes of aiding and cooperating in the planning, construction, and operation of slum clearance and housing [under chapter 356].”

SECTION 56. Section 359-89, Hawaii Revised Statutes, is amended to read as follows:

“§359-89 **Nonapplicable.** This part shall not be applicable (1) to the housing projects defined and specified in section [356-3,] 356-2, (2) to any housing project (as defined in section [356-3]) 356-2 that is or will be subject to section 356-34 or 356-35, or to both, or to any annual contributions contract between the Hawaii housing authority and the federal government, and (3) to any temporary housing required to be removed, transferred, or disposed of under section 359-8.”

SECTION 57. Section 359G-10.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The authority may accept and approve projects independently initiated by private developers which fully comply with subsections (a) and (b). The authority may review the plans, specifications, districting, and zoning of the project for the purpose of exempting the project from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, development, and improvement of land and the construction, improvement, and sale of homes thereon; provided that the procedures in section 359G-4.1[(1), (2), and (3)] have been satisfied.”

SECTION 58. Section 359G-18, Hawaii Revised Statutes, is amended to read as follows:

“[[§359G-18[]] **Restrictions on borrower.** Every loan made under this part shall be subject to the following conditions:

- [(a)] (1) The borrower shall expend no portion of [his] the borrower's downpayment loan for purposes other than to make a downpayment for the purchase of a residential property.
- [(b)] (2) The residential property purchased with the downpayment loan and mortgaged to the State to secure the repayment of the loan shall not be sold or assigned without the prior approval in writing of the authority and the private lender.
- [(c)] (3) The borrower shall pay when due all taxes, liens, judgments, or assessments which may be lawfully levied against the residential property and all costs and expenses of any foreclosure of the mortgage made to the State.
- [(d)] (4) The borrower shall maintain fire and casualty insurance in such amounts equal to the replacement value of all improvements and insurable portions of the residential property with [such] an insurance company authorized to do business in the State. All proceeds of such insurance shall be made payable to the private lender and the authority, as their respective interests may appear at the time of any loss or damage. Subject to the rules and regulations of the authority, in the event of any loss or damage to the improvements or property covered by such insurance, the proceeds receivable by the State shall be applied toward the reconstruction of the improvements or property destroyed or damaged, unless otherwise determined by the authority.
- [(e)] (5) The borrower shall maintain the improvements in good repair.

All of the above conditions shall be deemed to be a part of any downpayment mortgage executed under this part, regardless of whether or not they are expressly incorporated in the mortgage document."

SECTION 59. Section 359G-32, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The authority may make loans to qualified residents for the purpose of rehabilitating or renovating an existing housing unit. Loans under this section shall not be in excess of \$10,000, or \$3,500 as prescribed by subsection [(h)(1),] (h), to any resident or for any housing unit and shall be issued upon execution of a written contract for the performance of the rehabilitation or renovation."

SECTION 60. Section 360-33, Hawaii Revised Statutes, is amended to read as follows:

"**§360-33 Construction of additional powers.** Sections 360-31 and 360-32 shall not be construed as abrogating, limiting, or modifying chapter 356 [or 358]; including amendments to [each of such chapters,] chapter 356, or part I of chapter 359, including amendments thereto."

SECTION 61. Section 392-65, Hawaii Revised Statutes, is amended to read as follows:

"**§392-65 Temporary disability benefits to be paid from the special fund for disability benefits; recovery of disability benefits.** Temporary disability benefits shall be paid from the special fund for disability benefits to individuals who become disabled when unemployed and who subsequently become ineligible for benefits under chapter 383 [or 384]. Benefits shall also be paid from this fund to an employee who is entitled to receive temporary disability benefits but cannot receive such benefits because of the bankruptcy of [his] the employee's employer or because [his] the employee's employer is not in compliance with this chapter. Benefits paid from the special fund to such employee may be recovered from [his] the employee's bankrupt or [non-complying] noncomplying employer. The director shall institute administrative and legal actions, as provided in section 392-47, to effect recovery of such benefits."

SECTION 62. Section 392-66, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) An employee whose employment with a covered employer is terminated and who during a period of unemployment within twenty-six weeks immediately following such termination of employment becomes ineligible for benefits claimed under chapter 383 [or 384] solely because of disability commencing on or after January 1, 1970, and who on the day the disability commences is not employed and is not then otherwise eligible for benefits under this chapter, shall be entitled to receive disability benefits as hereinafter provided for each week of such disability for which week [he] the employee would have received unemployment insurance benefits if [he] the employee were not so disabled.

(b) The weekly benefits payable to the disabled unemployed shall be the same as the benefits to which the individual would be entitled under chapter 383 [or 384] except for [his] the individual's disability; provided that in a case of a disabled unemployed who is performing some form of less than full-time work as referred to in section 383-1(16) at the time the disability arises, [he] the individual shall receive benefits which [he] the individual would have been entitled to had [he] the individual not been performing less than full-time work;

provided[,] further[,] that benefits payable under this section shall not be payable for a period longer than twenty-six weeks from the time the above unemployed commences to receive unemployment benefits payable under chapter 383 [or 384].”

SECTION 63. Section 394-5, Hawaii Revised Statutes, is amended to read as follows:

“§394-5 Administration. The department of labor and industrial relations is authorized, with the advice of the [State Commission on manpower and full employment,] state commission on employment and human resources, to plan and administer [manpower] human resource development and training programs under this chapter. The department shall process the payment of weekly compensation as provided under this chapter.”

SECTION 64. Section 408A-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Thrift accounts plus unpaid interest thereon accrued as of the last interest accrual date prior to the date of receivership of the property and business of a member or the date such member is declared bankrupt, whichever first occurs, shall be guaranteed by the guaranty corporation as follows:

- (1) For single ownership thrift accounts in any one institution:
 - (A) Funds owned by an individual and invested in the manner set forth in this paragraph shall be added together and guaranteed up to \$10,000 in the aggregate.
 - (B) Individual accounts invested in one or more accounts in [his] the individual's own name shall be guaranteed up to \$10,000 in the aggregate.
 - (C) Funds owned by a principal and invested in one or more accounts in the name or names of agents or nominees shall be added to any individual account of the principal and guaranteed up to \$10,000 in the aggregate.
 - (D) Accounts held by a guardian, custodian, or conservator for the benefit of [his] the guardian's, custodian's, or conservator's ward or for the benefit of a minor under [the “Hawaii Uniform Gifts to Minors Act”] chapter 553A and invested in one or more accounts in the name of the guardian, custodian, or conservator shall be added to any individual account of the ward or minor and guaranteed up to \$10,000 in the aggregate.
- (2) For testamentary accounts in any one institution:
 - (A) Funds owned by an individual and invested in a revocable trust account, or tentative trust account, payable-on-death account, or similar account evidencing an intention that on [his] the individual's death the funds shall belong to [his] the individual's spouse, child, or grandchild shall be guaranteed up to \$10,000 in the aggregate as to each such named beneficiary, separately from any other account of the owner.
 - (B) If the named beneficiary of such an account is other than the owner's spouse, child, or grandchild, the funds in such account shall be added to any individual account of such owner and guaranteed up to \$10,000 in the aggregate.
- (3) For accounts in any one institution held by personal representatives, being funds of a decedent held in the name of the decedent or in the name of the personal representative of [his] the decedent's estate

- and invested in one or more accounts shall be guaranteed up to \$10,000 in the aggregate, separately from the individual accounts of the beneficiaries of the estate or of the personal representative.
- (4) For corporation or partnership accounts in any one institution, being accounts of a corporation or partnership engaged in any independent activity, up to \$10,000 in the aggregate. An account of a corporation or partnership not engaged in an independent activity shall be deemed to be owned by the person owning such corporation or comprising such partnership and, for guarantee purposes, the interest of each person in such account shall be added to any other account individually owned by such person and guaranteed up to \$10,000 in the aggregate.
 - (5) For unincorporated association accounts in any one institution, being accounts of an unincorporated association engaged in any independent activity up to \$10,000 in the aggregate. An account of an unincorporated association not engaged in any independent activity shall be deemed to be owned by the persons comprising such association and, for guarantee purposes, the interest of each owner in such account shall be added to any other account individually owned by such person and guaranteed up to \$10,000 in the aggregate.
 - (6) For joint accounts in any one institution:
 - (A) Accounts owned jointly, whether as joint tenants with right of survivorship, as tenants by the entirety, or as tenants in common, shall be guaranteed separately from account individually owned by the co-owners.
 - (B) A joint account shall be deemed to exist, for purposes of guarantee of accounts, only if each co-owner has personally executed an account signature card and possesses redemption rights.
 - (C) An account owned jointly which does not qualify as a joint account for purposes of guarantee of accounts shall be treated as owned by the named persons as individuals, and the actual ownership interest of each such person in such account shall be added to any other account individually owned by such person and guaranteed up to \$10,000 in the aggregate.
 - (D) All joint accounts owned by the same combination of individuals shall first be added together and guaranteed up to \$10,000 in the aggregate.
 - (E) The interest of each co-owner in all joint accounts owned by different combinations of individuals shall then be added together and guaranteed up to \$10,000 in the aggregate.
 - (7) For trust accounts in any one institution being all trust interests for the same beneficiary invested in accounts established pursuant to valid trust arrangements created by the same settlor (grantor) shall be added together and guaranteed up to \$10,000 in the aggregate, separately from other accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangements."

SECTION 65. Section 415-2, Hawaii Revised Statutes, is amended by amending the definition of "offeree company" to read as follows:

"(m) "Offeree company" means a corporation incorporated under the laws of this State and doing business in this State whose shares are the subject of

a take-over bid and which is either (i) subject to regulation by the public utilities commission under chapter 269, 271, or 271G or (ii) owns more than 1,000 acres of real property in any single county or (iii) is subject to the inspection of the [bank examiner] commissioner of financial institutions under chapter 401 or (iv) owns directly or indirectly more than ten per cent of the voting stock of any of the foregoing.”

SECTION 66. Section 415-3, Hawaii Revised Statutes, is amended to read as follows:

“**§415-3 Purposes.** Corporations may be organized under this chapter for any lawful purpose or purposes, other than for the purpose of carrying on any profession, except pursuant to [part VIII of] chapter [416.] 415A.”

SECTION 67. Section 415B-43, Hawaii Revised Statutes, is amended to read as follows:

“[[**§415B-43**]] **Voting.** The right of the members, or any class or classes of members, to vote may be limited, enlarged, or denied to the extent specified in the articles of incorporation or the bylaws or as determined by the board of directors. Unless so limited, enlarged, or denied, each member, regardless of class, shall be entitled to one vote on each matter submitted to a vote of members.

A member entitled to vote may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by proxy executed in writing by the member or by the member’s duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. Where directors or officers are to be elected by members, the bylaws or directors may provide that such elections may be conducted by mail.

The articles of incorporation or the bylaws may provide that in all elections for directors every member entitled to vote shall have the right to cumulate the member’s vote and give one candidate a number of votes equal to the [candidate’s] member’s vote multiplied by the number of directors to be elected, or by distributing such votes on the same principle among any number of such candidates.

If a corporation has no members or its members have no right to vote, the directors shall have the sole voting power.”

SECTION 68. Section 416-29, Hawaii Revised Statutes, is amended to read as follows:

“**§416-29 Charitable donations, pensions, by corporation.** Except as otherwise provided by the articles of association or charter of a corporation, the powers to make donations, and to pay pensions and establish pension plans and incentive plans as set forth in [sections] section 416-26(14) and [416-26(17)] (16) may be exercised by the board of directors of the corporation; provided[,] that in the case of a corporation which is being liquidated or dissolved, donations for the public welfare or for charitable, educational, or scientific purposes, and pensions and severance allowances may be paid by the corporation only if authorized by the affirmative vote of the holders of a majority of all of the shares of stock issued and outstanding and having voting power, or by such larger vote as may be required by the articles of association or charter. Nothing in this section shall affect the validity of any such action taken prior to May 14, 1947, by any such corporation.”

SECTION 69. Section 417-2, Hawaii Revised Statutes, is amended to read as follows:

"§417-2 Merger and consolidation of domestic corporations. Any two or more domestic corporations may be (1) merged into one of the domestic corporations, which is designated in this part as "the surviving corporation", or (2) consolidated into a new corporation to be formed under this part, which is designated in this chapter as "the consolidated corporation" by complying with sections 417-3 to [417-4.] 417-14."

SECTION 70. Section 417-25, Hawaii Revised Statutes, is amended to read as follows:

"§417-25 Determination of fair market value; decree; appeal; costs. If appraisers are appointed they forthwith shall proceed to determine the fair market value of the shares and the appraisers, or a majority of them, shall make a report within the time fixed by the court, and shall file their report in the office of the clerk of the court, whereupon, on the motion of any party, the report shall be submitted to the court and unless the report is agreed to by all parties, it shall be considered together with such evidence as the court may consider relevant.

If appraisers are not appointed or if a majority of them fail to make and file a report within ten days, or within such further time as may be allowed by the court, or their report is not confirmed by the court, the court shall determine from the evidence adduced the fair market value of the dissenting shares.

Upon determination by the court, a decree shall be rendered against the corporation involved which shall provide substantially that upon surrender of the shares the corporation shall make payment to the dissenting stockholders of an amount equal to the fair market value of each share as of the time above specified, multiplied by the number of dissenting shares in respect of which the court finds any dissenting [stockholders] stockholder is entitled to relief, together with interest thereon at four per cent a year from and after the date of the filing of the merger or consolidation agreement in the office of the director of commerce and consumer affairs.

Any decree shall be payable only upon the endorsement and delivery to the corporation of the certificates for the shares described in the decree. Any party may appeal from the decree in accordance with section 641-1.

The costs of the suit, including reasonable compensation to the appraisers to be fixed by the court, shall be assessed or apportioned as the court considers equitable."

SECTION 71. Section 417-42, Hawaii Revised Statutes, is amended to read as follows:

"§417-42 Merger of parent corporation and subsidiary. Any corporation organized or existing under the laws of this State or under the laws of any other state or jurisdiction subject to the laws of the United States, if the laws of the other state or jurisdiction permit a merger, owning at least ninety per cent of the outstanding shares of each class of the stock of any other corporation or corporations organized or existing under the laws of this State, or under the laws of any other state or jurisdiction subject to the laws of the United States, if the laws of the other state or jurisdiction permit such a merger, may file in the office of the director of commerce and consumer affairs a certificate of such ownership and of merger in its name and under its corporate seal, signed by any two authorized officers of the corporation and setting forth a copy of the resolution of its board of directors to merge the other corporation or corporations into it and to assume all of its or their obligations and the date of the adoption thereof;

provided[,] that in case the parent corporation shall not own all the outstanding stock of all the subsidiary [corporation] corporations parties to a merger as aforesaid, the resolution of the board of directors of the parent corporation shall state the terms and conditions of the merger, including the securities, cash, or other consideration into which shares of stock of the subsidiary corporation or corporations not owned by the parent corporation are to be converted. Upon the minute, hour, and day of filing of the certificate of ownership and merger pursuant to this section, or if a subsequent minute, hour, and day has been specified in the certificate then upon such subsequent minute, hour, and day, the separate existence of the subsidiary corporation or corporations shall cease and all and singular the rights, privileges, franchises, and property of the subsidiary corporations and all debts and liabilities due or to become due to the subsidiary corporations, including subscriptions for shares and things in action and every interest or asset of conceivable value or benefit, shall be deemed fully and finally and without any right of reversion transferred to and vested in the surviving parent corporation without further act or deed, and the surviving parent corporation shall have and hold the same in its own right as fully as the same was possessed and held by the subsidiary corporation from which it was, by operation of this part, transferred; and except as and to the extent otherwise provided in section 417-43, each share of stock of the subsidiary corporation or corporations not theretofore owned by the parent corporation shall be deemed converted into the securities, cash, or other consideration provided in the certificate of ownership and merger. All debts, liabilities, and obligations due or to become due of, and all claims or demands for any cause existing against, the subsidiary corporation [shall] upon the merger shall be and become the debts, liabilities, and obligations of and the claims and demands against the surviving parent corporation in the same manner as if the surviving parent corporation had itself incurred or otherwise become liable for them. All rights of creditors and all liens upon the property of each of the subsidiary [corporation] corporations shall be preserved unimpaired, limited in lien to the property affected by the liens immediately prior to the time of the merger. Any action or proceedings pending by or against any subsidiary corporation shall not be deemed to have abated or been discontinued but may be prosecuted to judgment with the right to appeal or review as in other cases as if the merger or consolidation had not taken place or the surviving parent corporation may be substituted for the subsidiary corporation."

SECTION 72. Section 418-2, Hawaii Revised Statutes, is amended to read as follows:

"§418-2 Same; by nonprofit corporation. Any corporation organized without capital stock under the laws of any other jurisdiction for any lawful purpose except the carrying on of a business, trade, avocation, or profession for profit which undertakes to do or transact business in this State shall file in the office of the director of commerce and consumer affairs:

- (1) A declaration sworn to on oath by two authorized officers of the corporation stating:
 - (A) The name of the corporation;
 - (B) The state wherein it was incorporated;
 - (C) The address of its principal office;
 - (D) The address of its proposed branch office or offices in the State;
 - (E) The [name] names and addresses of its officers and directors, if any;

- (F) The nature of the business to be transacted in the State;
 - (G) The name and business address of the person residing within the State upon whom legal notice and process from the courts of the State, or notices from officials of the State, may be served[.];
 - (H) That the corporation is not organized for profit and that it will not issue any stock, and no part of its assets, income, or earnings shall be distributed to its members, directors, or officers, except for services actually rendered to the corporation.
- (2) A copy of the articles of incorporation as amended to the date of the declaration, certified to by the proper officer of the state wherein the corporation was organized need not be filed except upon request by the director of commerce and consumer affairs.
 - (3) A certificate setting forth that such corporation is in good standing under the laws of the jurisdiction of its incorporation executed by the official of such jurisdiction who has custody of the records pertaining to corporations and dated not earlier than thirty days prior to the filing of the declaration. If such certificate is in a foreign language, a translation thereof under oath of the translator shall be attached thereto."

SECTION 73. Section 421C-31, Hawaii Revised Statutes, is amended to read as follows:

"[]§421C-31[]] **Merger and consolidation.** [Chapter 417, part I,] The general corporation laws relating to the merger and consolidation of domestic corporations shall apply to associations formed under this chapter."

SECTION 74. Section 441-24.5, Hawaii Revised Statutes, is amended to read as follows:

"§441-24.5 **Pre-need trusts and perpetual care funds; audited financial statements.** Every cemetery authority operating a perpetual care cemetery or which engages in pre-need sales or holds money in trust for pre-need interment services, and every pre-need funeral authority which engages in pre-need sales or holds money in trust for pre-need funeral services shall submit an audited financial statement of its pre-need trusts and perpetual care funds to the [commissioner of financial institutions] director within ninety days after the close of the authority's books on a fiscal or calendar year basis."

SECTION 75. Section 448-12, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The board of dental examiners may issue without examination to any resident or nonresident licensed in another state and otherwise qualified to be examined a temporary license to practice dentistry while in the employment of the department of health to provide dental services to [leprosy patients.] Hansen's disease sufferers. The temporary license shall be valid for a period of three years or until the first board examination after the conclusion of the three-year period and only while the person to whom the temporary license is issued is in the employment of the department of health and works under the general direction and supervision of a duly licensed dentist. The temporary license shall not be renewed and shall be reviewed annually by the board of dental examiners for continuance and shall be subject to revocation and suspension as provided in

section 448-17. The temporary licensee shall not be eligible for examination by the board of dental examiners while the temporary license is in effect."

SECTION 76. Section 468K-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) For purposes of this chapter, an order for restitution obtained by the office of consumer protection on behalf of a person aggrieved against a registered travel agency or registered sales representative shall be the judgment obtained by the person aggrieved against the registered travel agency or registered sales representative. For purposes of this chapter, any written notification to the [director] trustees as required by subsection (a) by the office of consumer protection or any action to recover restitution on behalf of the person aggrieved by the office of consumer protection shall be the actions of the person aggrieved."

SECTION 77. Section 480-10, Hawaii Revised Statutes, is amended to read as follows:

"§480-10 Exemption of labor organizations. The labor of a human being is not a commodity or article of commerce. Nothing in this chapter shall be construed to forbid the existence and operation of labor organizations, instituted for the purpose of mutual help, and not having capital stock or conducted for profits, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, lawfully carrying out the legitimate objects thereof be held or construed to be illegal combinations or conspiracies in restraint of trade under this chapter.

This chapter shall not apply to the conduct or activities of labor organizations or their members which conduct or activities are regulated by federal or state legislation or over which the National Labor Relations Board or the Hawaii [employment] labor relations board has jurisdiction."

SECTION 78. Section 486H-3, Hawaii Revised Statutes, is amended to read as follows:

"[[§486H-3[]] Notice of termination, cancellation, or nonrenewal. A petroleum distributor shall not terminate, cancel, or refuse to renew a franchise with a gasoline dealer without first giving [him] the dealer written notice by certified mail at least ninety days in advance of the effective date of such action as set forth in the notice. Notwithstanding any provision to the contrary contained in this section, a petroleum distributor may terminate, cancel, or refuse to renew a franchise with a gasoline dealer effective five days after the posting of written notice by certified mail to the gasoline dealer at [his] the dealer's last known address, if such action is based on any of the following reasons:

- (1) Citation of the gasoline dealer by the division of [weights and measures] measurement standards for adulteration, substitution, contamination, or other degradation of petroleum products sold under the trademark of the petroleum distributor; provided such adulteration, substitution, contamination, or other degradation is caused by the wilful or negligent act of the gasoline dealer; [or]
- (2) Voluntary abandonment of the franchise relationship by the gasoline dealer; [or]
- (3) Conviction of the gasoline dealer of a crime involving the business conducted pursuant to the franchise; or

- (4) Adjudication of bankruptcy of the gasoline dealer, or [his] the dealer's becoming insolvent in the sense that the dealer cannot meet [his] the dealer's financial obligations when due."

SECTION 79. Section 710-1022, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) A "dangerous instrument" shall have the same meaning as defined in section 707-700[(4)]; a dangerous instrument may only be possessed by or conveyed to a confined person with the facility administrator's express prior approval. A "drug" shall include [any of the items] dangerous drugs, detrimental drugs, harmful drugs, intoxicating compounds, marijuana, and marijuana concentrates as listed in section 712-1240[(1) to (3) and (5) to (7)]; a drug may only be possessed by or conveyed to a confined person with the facility administrator's express prior approval and under medical supervision."

SECTION 80. Act 167, Session Laws of Hawaii 1983, is amended by substituting the word "1987" wherever the word "1986" appears, as the context requires.

SECTION 81. Act 270, Session Laws of Hawaii 1985, is amended by amending section 6 to read as follows:

"SECTION 6. This Act shall take effect on July 1, 1987[.]; provided that section 4 shall take effect upon its approval."

SECTION 82. Act 293, Session Laws of Hawaii 1985, is amended by amending section 5 as follows:

"SECTION 5. This Act shall take effect [upon its approval.] on July 1, 1985."

SECTION 83. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1986, whether enacted before or after the effective date of this Act, unless such other acts specifically provided otherwise.

SECTION 84. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 85. This Act shall take effect upon approval.

(Approved June 13, 1986.)

Notes

1. Prior to amendment, "," appeared here.
2. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER TRANSIENT ACCOMMODATIONS TAX

§ -1 **Definitions.** Whenever used in this chapter, unless the context otherwise requires:

“Director” means the director of taxation.

“Gross income” or “gross proceeds” means the same as defined in chapter 237, limited to the gross rental charged and collected for transient accommodations, except that any taxes passed on and collected under chapter 237 shall be deducted in order to determine gross proceeds or gross income for the purposes of this chapter.

“Operator” means any person operating a transient accommodation, whether as owner or proprietor or as lessee, sublessee, mortgagee in possession, licensee, or otherwise, or engaging or continuing in any service business which involves the actual furnishing of transient accommodation.

“Transient” means that the accommodations furnished to a person are being furnished to a person who does not have the intention of making such accommodation a permanent place of domicile.

“Transient accommodations” means the furnishing of a room, apartment, suite, or the like which is customarily occupied by a transient for less than one-hundred eighty consecutive days for each letting by a hotel, apartment hotel, motel, horizontal property regime or apartment as defined in chapter 514A, cooperative apartment, rooming house, or other place in which lodgings are regularly furnished to transients for consideration.

§ -2 **Imposition and rates.** (a) There is levied and shall be assessed and collected each month a tax of five per cent on the gross income or gross proceeds derived from furnishing transient accommodations.

(b) Every operator shall pay to the State the tax imposed by this section as provided in this chapter.

§ -3 **Exemptions.** This chapter shall not apply to:

- (1) Health care facilities including all such facilities enumerated in section 321-11(10).
- (2) School dormitories of a public or private educational institution providing education in grades kindergarten through twelve, or of any institution of higher education.
- (3) Lodging provided by nonprofit corporations or associations for religious, charitable, or educational purposes.
- (4) Living accommodations for persons in the military on permanent duty assignment to Hawaii.
- (5) Low-income renters receiving rental subsistence from the state or federal governments and whose rental periods are for durations shorter than sixty days.

§ -4 **Certificate of registration.** No later than seven days before January 1, 1987, each operator as a condition precedent to engaging or continuing in the business of furnishing transient accommodations shall register with the director the name and address of each place of business within the State subject to this chapter. The operator shall pay the sum of \$1 for each registration, upon receipt of which the director shall issue a certificate of registration for each place in such form as the director determines, attesting that the registration has been made. The registration shall not be transferable, shall be valid only for the operator in whose name it is issued and for the transaction of business at the place designated therein, and shall at all times be conspicuously displayed at the place for which it is issued. Any person

commencing business as an operator after January 1, 1987, shall register and obtain a certificate of registration before commencing business. Each certificate of registration shall expire on December 31 next succeeding the date of its issuance. Any person who may lawfully be required by the State, and who is required by this chapter, to register as a condition precedent to engaging or continuing in the business of furnishing transient accommodations subject to taxation under this chapter, who engages or continues in the business without registering in conformity with this chapter, shall be guilty of a misdemeanor. Any director, president, secretary, or treasurer of a corporation who permits, aids, or abets such corporation to engage or continue in business without registering in conformity with this chapter, shall likewise be guilty of a misdemeanor. The penalty for the misdemeanors shall be that prescribed by section -17 for individuals, corporations, or officers of corporations, as the case may be, for violation of that section.

§ -5 **Renewal of registration.** The registration provided for by section -4 shall be renewed annually, on or before January 31, or within such extended period, not to exceed an additional sixty days, as shall be allowed by the department of taxation for good cause. It shall be a condition precedent to the renewal of the registration that the applicant therefor shall have complied with the condition of the previous registration requiring that the taxes accruing under this chapter be paid, provided:

- (1) The department shall not, because of nonpayment of taxes, refuse the renewal of a registration for the exercise of a privilege protected by the first amendment of the Constitution of the United States, or for any privilege the exercise of which, under the Constitution and laws of the United States, cannot be restrained on account of nonpayment of taxes, nor shall section -14 be invoked to restrain the exercise of such a privilege. All persons who are entitled to the protection of this paragraph further shall be entitled to register under section -4, and an annual renewal under this section, upon payment of the sum of \$1 for each registration renewal.
- (2) The department shall not refuse the renewal of a registration on account of the nonpayment of any amount of tax that, on or before December 31 of the previous year, had not become delinquent.
- (3) The department, notwithstanding tax delinquency, may renew a registration (A) if assured of the payment of the delinquent taxes within a reasonable time, subject to and upon the condition subsequent that the delinquent taxes shall be so paid, or (B) in a case of tax delinquency due to a loss sustained, for reasons beyond the taxpayer's control, from the business on which the tax is imposed, or in other cases of excusable delinquency in the payment of the tax.

§ -6 **Return and payments; remittance; penalties.** On or before the last day of each calendar month, every operator taxable under this chapter during the preceding calendar month shall file a sworn return with the director in such form as the director shall prescribe. Sections 237-30, 237-31, and 237-32 shall apply to returns, remittances, and penalties made under this chapter to the same extent as if the sections were set forth specifically in this section.

§ -7 **Annual return.** On or before April 20 in each year every person who has become liable for the payment of taxes under this chapter during the preceding tax year shall file a return summarizing that person's liability under this chapter for the year, in such form as the director prescribes. The operator shall transmit with the return a remittance covering the residue of the tax

chargeable to the operator, if any, to the office of the appropriate state district tax assessor designated in section -8.

§ -8 Filing of returns. All monthly and annual returns shall be transmitted to the office of the taxation district in which the transient accommodation upon which the tax is imposed is situated. Where a person is authorized to collect rent on behalf of an owner under an agreement subject to section 237-30.5, such person shall comply with section 237-30.5 with respect to the tax imposed under this chapter.

§ -9 Assessment of tax upon failure to make return. (a) If any operator fails to make a return as required by this chapter, the director shall make an estimate of the tax liability of the operator from any information the director obtains, and according to the estimate so made, assess the taxes, interest, and penalty due the State from the operator, give notice of the assessment to the operator, and make demand upon the operator for payment.

(b) After a return is filed under this chapter, the director shall cause the return to be examined, and may make such further audits or investigation as the director considers necessary. If the director determines that there is a deficiency with respect to the payment of any tax due under this chapter, the director shall assess the taxes and interest due the State, give notice of the assessment to the persons liable, and make demand upon the persons for payment. No assessment under this section shall be made after three years from the date the return was due, unless the return was fraudulent.

§ -10 Overpayment; refunds. Upon application by an operator, if the director determines that any tax, interest, or penalty has been paid more than once, or has been erroneously or illegally collected or computed, the tax, interest, or penalty shall be credited by the director on any taxes then due from the operator under this chapter. The director shall refund the balance to the operator or the operator's successors, administrators, executors, or assigns in accordance with section 231-23. No credit or refund shall be allowed after three years from the date the return was due.

§ -11 Appeals. Any person aggrieved by any assessment of the tax for any month or any year may appeal from the assessment in the manner and within the time and in all other respects as provided in the case of income tax appeals by section 235-114; provided the tax so assessed shall have been paid.

§ -12 Records to be kept; examination; penalties. Every operator shall keep in the English language within the State, and preserve for a period of three years, suitable records of gross proceeds and gross income relating to transient accommodations taxed under this chapter, and such other books, records of account, and invoices as may be required by the department of taxation, and all such books, records, and invoices shall be open for examination at any time by the department or the Multistate Tax Commission pursuant to chapter 255, or the authorized representative thereof. Any person violating this section shall be guilty of a misdemeanor; and any director, president, secretary, or treasurer of a corporation who permits, aids, or abets the corporation to violate this section shall likewise be guilty of a misdemeanor; the penalty for such misdemeanor shall be that prescribed by section 231-34 for individuals, corporations, or officers of corporations, as the case may be, for violation of that section.

§ -13 Disclosure of returns unlawful; destruction of returns. (a) All tax returns and return information required to be filed under this chapter, and the report of any investigation of the return or of the subject matter of the return,

shall be confidential. It shall be unlawful for any person or any officer or employee of the State to intentionally make known information imparted by any tax return or return information filed pursuant to this chapter, or any report of any investigation of the return or of the subject matter of the return, or to willfully permit any such return, return information, or report so made, or any copy thereof, to be seen or examined by any person; provided that for tax purposes only the taxpayer, the taxpayer's authorized agent, or persons with a material interest in the return, return information, or report may examine them. Unless otherwise provided by law, persons with a material interest in the return, return information, or report shall include:

- (1) Trustees;
- (2) Partners;
- (3) Persons named in a board resolution or a one per cent shareholder in case of a corporate return;
- (4) The person authorized to act for a corporation in dissolution;
- (5) The shareholder of an S corporation;
- (6) The personal representative, trustee, heir, or beneficiary of an estate or trust in case of the estate's or decedent's return;
- (7) The committee, trustee, or guardian of any person in paragraphs (1) to (6) who is incompetent;
- (8) The trustee in bankruptcy or receiver, and the attorney-in-fact of any person in paragraphs (1) to (7);
- (9) Persons duly authorized by the State in connection with their official duties;
- (10) Any duly accredited tax official of the United States or of any state or territory; and
- (11) The Multistate Tax Commission or its authorized representative.

Any violation of this subsection shall be a misdemeanor. Nothing in this subsection shall prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items of the reports or returns.

(b) The department may destroy the monthly returns filed pursuant to section -6, or any of them, upon the expiration of three years after the end of the calendar year in which the taxes so returned accrued.

§ -14 Collection by suit; injunction. The department of taxation may collect taxes due and unpaid under this chapter, together with all accrued penalties, by action in assumpsit or other appropriate proceedings in the circuit court of the judicial circuit in which the taxes arose. After delinquency shall have continued for sixty days, or if any person lawfully required so to do under this chapter shall fail to apply for and secure a certificate as provided by this chapter for a period of sixty days after the first date when the person was required under this chapter to secure the certificate, or if any person lawfully required so to do under this chapter shall fail to apply for and secure, on or before April 1, or shall fail to maintain in effect, a renewal of a certificate as provided by this chapter, the department may proceed in the circuit court of the judicial circuit in which the transient accommodations are taxed, to obtain an injunction restraining the further furnishing of transient accommodations until full payment shall have been made of all taxes and penalties and interest due under this chapter, or until such certificate is secured, or both, as the circumstances of the case may require.

§ -15 Application of tax. (a) The tax imposed by this chapter shall be in addition to any other taxes imposed by any other laws of the State, except as

otherwise specifically provided in this chapter; provided that if it be held by any court of competent jurisdiction that the tax imposed by this chapter may not legally be imposed in addition to any other tax or taxes imposed by any other law or laws with respect to the same property or the use thereof, then this chapter shall be deemed not to apply to such property and the use thereof under the specific circumstances, but the other laws shall be given full effect with respect to such property and use.

(b) In order to determine if the tax under this chapter is to be levied, assessed, and collected the following presumptions shall control.

- (1) If a person lets a transient accommodation for less than one-hundred eighty consecutive days, it shall be presumed that the accommodation furnished is for a transient purpose.
- (2) If a person lets a transient accommodation for one-hundred eighty days or more, there is no presumption one way or another as to the purpose for which the accommodation is furnished.

The operator shall have the burden of proving to the department whether an accommodation is not being furnished for a transient purpose. If the department is satisfied that an accommodation is not furnished for a transient purpose, then the department shall not levy any tax under this chapter. The department shall adopt rules to implement this section.

§ -16 Administration and enforcement; rules. (a) The director of taxation shall administer and enforce this chapter. In respect of:

- (1) The examinations of books and records and of taxpayers and other persons,
- (2) Procedure and powers upon failure or refusal by a taxpayer to make a return or proper return, and
- (3) The general administration of this chapter,

the director of taxation shall have all rights and powers conferred by chapter 237 with respect to taxes thereby or thereunder imposed; and, without restriction upon these rights and powers, sections 237-8 and 237-36 to 237-41 are made applicable to and with respect to the taxes, taxpayers, tax officers, and other persons, and the matters and things affected or covered by this chapter, insofar as not inconsistent with this chapter, in the same manner, as nearly as may be, as in similar cases covered by chapter 237.

(b) The director may adopt, amend, or repeal rules under chapter 91 to carry out this chapter.

§ -17 Evasion of tax, etc.; penalties. (a) It shall be unlawful for any person to refuse to make the return required to be made in section -7; or to make any false or fraudulent return or false statement in any return, with intent to defraud the State or to evade the payment of tax imposed by this chapter; or for any person to aid or abet another in any attempt to evade the payment of any tax imposed by this chapter; or for the president, vice-president, secretary, or treasurer of any corporation to make or permit to be made for any corporation or association any false return, or any false statement in any return required by this chapter, with the intent to evade the payment of any tax hereunder. Any person violating this section or violating any of the provisions of section 231-34 in relation to the tax imposed by this chapter, shall be punished as provided in section 231-34. Any corporation for which a false return, or a return containing a false statement shall be made, shall be fined in the amount provided in section 231-34.

(b) Any operator or person entering into an agreement or letting, where the agreement or letting is based on a time period or other provision in the

agreement, with the intention of avoiding the tax imposed under this chapter shall be guilty of a misdemeanor.”

SECTION 2. Section 231-3, Hawaii Revised Statutes, is amended to read as follows:

“§231-3 Department, general duties and powers. The department of taxation shall have the following duties and powers, in addition to any others prescribed or granted by this chapter:

- (1) Assessment: To assess, pursuant to law, all real property for taxation and to make any other assessment by law required to be made by the department;
- (2) Collections: To be responsible for the collection of all taxes imposed by chapters 231 to 249, 236D, [and] 244D, and ___, except those which by law are to be collected by county treasurers, and for such other duties as are provided by law;
- (3) Construction of revenue laws: To construe the tax and revenue laws, the administration of which is within the scope of the department’s duties, whenever requested by any officer acting under such laws, or by an interested person;
- (4) Enforcement of penalties: To see that penalties are enforced when prescribed by any tax or revenue law of the State (the administration of which is within the scope of the department’s duties) for disobedience or evading of its provisions, and to see that complaint is made against persons violating any such law; in the execution of these powers and duties the department may call upon the attorney general or any of his deputies, including the county attorneys or public prosecutors, whose duties it shall be to assist in the institution and conduct of all proceedings or prosecutions for penalties and forfeitures, liabilities, and punishments for violation of the laws in respect to the assessment and taxation of property;
- (5) Forms: To prescribe forms to be used in or in connection with such assessment, including forms to be used in the making of returns by taxpayers or in any other proceedings connected with the assessment, and to change the same from time to time as deemed necessary;
- (6) Inspection, examination of records: To inspect and examine the records of all public officers without charge, and to examine the books and papers of account of any person for the purpose of enabling the department to obtain all information that could in any manner aid the department in discharging its duties under any tax law;
- (7) Recommendations for legislation: To recommend to the governor such amendments, changes, or modifications of the laws as may seem proper or necessary to remedy injustice or irregularity in taxation or to facilitate the assessment of property for taxation or any other assessment of or for taxes;
- (8) Report to governor: To report to the governor annually, and at such other times and in such manner as the governor may require, concerning the acts and doings and the administration of the department, and such other matters of information concerning taxation as may be deemed of general interest;
- (9) Rules and regulations: To make such rules and regulations as the department may deem proper effectually to carry out the purposes

- for which the department is constituted and to regulate matters of procedure by or before the department;
- (10) **Compromises:** With the approval of the governor, to compromise any claim arising under any tax law the administration of which is within the scope of the department's duties; and in any such case there shall be placed on file in the department's office a statement of (A) the amount of tax assessed, or proposed to be assessed, (B) the amount of penalties and interest imposed or which could have been imposed by law with respect to the preceding item, as computed by the department, (C) the total amount of liability as determined by the terms of the compromise, and the actual payments made thereon with the dates thereof, and (D) the reasons for the compromise;
 - (11) **Retroactivity of rulings:** To prescribe the extent, if any, to which any ruling, regulation, or construction of the tax laws, of general application, shall be applied without retroactive effect;
 - (12) **Remission of delinquency penalties and interest:** Except in cases of fraud or wilful violation of the laws or wilful refusal to make a return setting forth the information required by law (but inclusion in a return of a claim of nonliability for the tax shall not be deemed a refusal to make a return), the department may remit any amount of penalties or interest added, under any law administered by the department, to any tax that is delinquent for not more than ninety days, in a case of excusable failure to file a return or pay a tax within the time required by law, or in a case of uncollectibility of the whole amount due; and in any such case there shall be placed on file in the department's office a statement showing the name of the person receiving such remission, the principal amount of the tax, and the year or period involved;
 - (13) **Closing agreements:** To enter into an agreement in writing with any taxpayer or other person relating to the liability of such taxpayer or other person, under any law the administration of which is within the scope of the department's duties, in respect of any taxable period, or in respect of one or more separate items affecting the liability for any taxable period; such agreement, signed by or on behalf of the taxpayer or other person concerned, and by or on behalf of the department, shall be final and conclusive, and except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, (A) the matters agreed upon shall not be reopened, and the agreement shall not be modified, by any officer or employee of the State, and (B) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded;
 - (14) **Other powers and duties:** In addition to the powers and duties contained in this chapter, the powers and duties contained in chapter 246 for levying, assessing, collecting, receiving, and enforcing payments of the tax imposed thereunder, and otherwise relating thereto, shall be severally and respectively conferred, granted, practiced, and exercised for levying, assessing, collecting, and receiving and enforcing payment of the taxes imposed under the authority of chapters 235, 237 to 239, 243 to 245, 236D, [and] 244D, and , as far as the provisions of chapter 246 are not

superseded by and are consistent with the express provisions of those chapters, as fully and effectually to all intents and purposes as if the same powers and authorities were repeated in those chapters, with reference to those taxes, and all of the provisions and regulations prescribed under chapter 246, except as aforesaid, shall be applied, construed, deemed, and taken to refer to the taxes imposed under the authority of those chapters, in like manner.”

SECTION 3. Section 231-6, Hawaii Revised Statutes, is amended to read as follows:

“§231-6 Oaths, power to administer. The department of taxation may administer all oaths or affirmations required to be taken or be administered under chapters 231 to 249, 236D, [and] 244D, and, with respect to any matters coming within the scope of the duties of the department.”

SECTION 4. Section 231-12, Hawaii Revised Statutes, is amended to read as follows:

“§231-12 District judges; jurisdiction over misdemeanors and actions for tax collections. Except as otherwise specifically provided by chapters 231 to 249, 236D, [and] 244D, and, the several district judges shall have jurisdiction to try misdemeanors arising under such chapters and all complaints for the violation of such chapters and to impose any of the penalties therein prescribed, and shall also have jurisdiction to hear and determine all civil actions and proceedings for the collection and enforcement of collection and payment of all taxes assessed thereunder, and all actions or judgments obtained in tax actions and proceedings, notwithstanding the amount claimed.”

SECTION 5. Section 231-23, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) This subsection shall apply to all taxes.

- (1) All refunds shall be paid only upon a form to be known as a “refund voucher” prepared by the collector. The refund vouchers shall set forth all the details of each transaction, shall be approved by the director, and shall be forwarded to the comptroller from time to time. The comptroller shall issue [his] a warrant, in the form prescribed by section 40-52, for the payment of any such refund out of the tax reserve fund hereinafter created; provided that if the person entitled to the refund is delinquent in the payment of any tax, the comptroller, upon demand of the collector and after notice to the delinquent taxpayer, shall withhold the amount of the delinquent taxes, together with penalties and interest thereon, from the amount of the refund and pay the same to the collector.
- (2) There is hereby appropriated, from the general revenues of the State not otherwise appropriated, the sum of \$25,000 which shall be set aside as a special fund to be known as the tax reserve fund. All refunds of taxes collected under chapters 235 to 239, 241, 243 to 246, 236D, [and] 244D, and, heretofore made out of the reserve funds in chapters 235 and 237 or from the general fund, shall be made out of the tax reserve fund. The director of taxation may, from time to time, deposit taxes collected [by him] under the chapters enumerated in the immediately preceding sentence in the state treasury to the credit of the tax reserve fund so that there may be maintained at all times a fund not exceeding \$25,000. The

amounts deposited shall be made from the taxes with respect to which a particular refund is made, but in the case of a real property tax refund, from the next collection of real property taxes of the taxation division in which the property which was the subject of the refund is situated."

SECTION 6. Section 231-29, Hawaii Revised Statutes, is amended to read as follows:

"§231-29 Joinder of party defendant when State claims tax liens. The director of taxation (or in the case of a lien under chapter 383, the director of labor and industrial relations) may be named a party defendant in any civil action in any state court of competent jurisdiction or in the district court of the United States for the district of Hawaii, to quiet title to or for the foreclosure of a mortgage or other lien upon real or personal property on which the State has or claims a tax lien under chapters 233, 235, 237 to 239, 241, 243, 244D, 245, ___, and 383; provided that the jurisdiction herein conferred shall be limited and shall not operate as a consent by the State to be sued as to its claim of title to or liens and encumbrances on real and personal property other than the liens aforementioned.

Service upon the director shall be made as provided by the rules of court. In any action herein contemplated, the director may ask, by way of affirmative relief, for the foreclosure of the aforementioned state tax liens, but in the absence of such request for affirmative relief, upon any foreclosure sale the property shall be sold subject to the tax liens. Nothing in this section shall preclude the director from asking for such other and further relief as might have been claimed by intervention in the action."

SECTION 7. Section 237-18, Hawaii Revised Statutes, is amended to read as follows:

"§237-18 Further provisions as to application of tax. (a) Where a coin operated device produces gross income which is divided between the owner or operator of the device, on the one hand, and the owner or operator of the premises where the device is located, on the other hand, the tax imposed by this chapter shall apply to each such person with respect to his portion of the proceeds, and no more.

(b) Where gate receipts or other admissions are divided between the person furnishing or producing a play, concert, lecture, athletic event, or similar spectacle (including any motion picture showing) on the one hand, and a promoter (including any proprietor or other operator of a motion picture house) offering the spectacle to the public, on the other hand, the tax imposed by this chapter shall, if the promoter [be] is subject to the tax imposed by this chapter, apply only to the promoter measured by the whole of the proceeds, and the promoter shall be authorized to deduct and withhold from the portion of the proceeds payable to the person furnishing or producing the spectacle the amount of the tax payable by him upon such portion. No tax shall apply to a promoter with respect to such portion of the proceeds as is payable to a person furnishing or producing the spectacle, who is exempted by section 237-23 from taxation upon such activity.

[(c) [DELETED.]

(d) (c) Where, through the activity of a person taxable under section 237-13(6), a product has been milled, processed, or otherwise manufactured upon the order of another taxpayer who is a manufacturer taxable upon the value of the entire manufactured products, which consists in part of the value of

the services taxable under section 237-13(6), so much gross income as is derived from the rendering of the services shall be subjected to tax on the person rendering the services at the rate of one-half of one per cent, and the value of the entire product shall be included in the measure of the tax imposed on the other taxpayer as elsewhere provided.

[(e)] (d) Where, through the activity of a person taxable under section 237-13(6), there have been rendered to a cane planter services consisting in the harvesting or hauling of the cane, or consisting in road maintenance, under a contract between the person rendering the services and the cane planter, covering the services and also the milling of the sugar, the services of harvesting and hauling the cane and road maintenance shall be treated the same as the service of milling the cane, as provided by subsection [(d),] (c), and the value of the entire product, manufactured or sold for the cane planter under the contract, shall be included in the measure of the tax imposed on him as elsewhere provided.

[(f)] (e) Where insurance agents, including general agents, subagents, or solicitors, who are not employees and are licensed pursuant to chapter 431, or real estate brokers or salesmen, who are not employees and are licensed pursuant to chapter 467, produce commissions which are divided between such general agents, subagents, or solicitors, or between such real estate brokers or salesmen, as the case may be, the tax levied under section 237-13(6) or under section 237-16 as to real estate brokers or salesmen, or under section 237-13(7) as to insurance general agents, subagents, or solicitors shall apply to each such person with respect to his portion of the commissions, and no more.

(f) Where tourism related services are furnished through arrangements made by a travel agency or tour packager and the gross income is divided between the provider of the services on the one hand and the travel agency or tour packager on the other hand, the tax imposed by this chapter shall apply to each such person with respect to such person's respective portion of the proceeds, and no more.

As used in this subsection "tourism related services" means catamaran cruises, canoe rides, dinner cruises, and sightseeing tours not subject to chapter 239."

SECTION 8. Section 237-20, Hawaii Revised Statutes, is amended to read as follows:

"§237-20 Principles applicable in certain situations. A person or company having shareholders or members (a corporation, association, group, trust, partnership, joint adventure, or other person) is taxable upon its business with them, and they are taxable upon their business with it. A person or company, whether or not called a cooperative, through which shareholders or members are pursuing a common objective (for example, the obtaining of property or services for their individual businesses or use, or the marketing of their individual products) is a taxable person, and such facts do not give rise to any tax exemption or tax benefit except as specifically provided. Even though a business has some of the aspects of agency it shall not be so regarded unless it is a true agency. The reimbursement of costs or advances made for or on behalf of one person by another shall not constitute gross income of the latter[. Where], unless the person receiving such reimbursement also receives additional monetary consideration for making such costs or advances [such additional consideration shall constitute gross income.

Funds paid by a customer or the customer's agent to a travel agent or tour packager for tickets or reservations for a particular tour or package of

travel services or accommodations, or both, which are not transmitted to the persons or entities who are to furnish the tour or package of travel services or accommodations shall be presumed not to be part of the gross proceeds or gross income received or accrued by such persons or entities. This presumption may be rebutted by showing an agreement to the contrary].”

SECTION 9. Section 237-24, Hawaii Revised Statutes, is amended to read as follows:

“§237-24 Amounts not taxable. This chapter shall not apply to the following amounts:

- (1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured;
- (2) Amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract;
- (3) Amounts received under any accident insurance or health insurance policy or contract or under workers' compensation acts or employers' liability acts, as compensation for personal injuries, death, or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of the personal injuries, death, or sickness;
- (4) The value of all property of every kind and sort acquired by gift, bequest, or devise, and the value of all property acquired by descent or inheritance;
- (5) Amounts received by any person as compensatory damages for any tort injury to him, or to his character reputation, or received as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties (provided that amounts received as punitive damages for tort injury or breach of contract injury shall be included in gross income);
- (6) Amounts received as salaries or wages for services rendered by an employee to an employer;
- (7) Amounts received as alimony and other similar payments and settlements;
- (8) Amounts collected by distributors as fuel taxes on “liquid fuel” imposed by chapter 243, and the amounts collected by such distributors as a fuel tax imposed by any act of the Congress of the United States;
- (9) Taxes on liquor imposed by chapter 244D on dealers holding permits under that chapter;
- (10) The amounts of taxes on tobacco products imposed by chapter 245 on wholesalers or dealers holding licenses under that chapter and selling the products at wholesale, and the amounts of taxes on tobacco products collected from a wholesaler by another where the wholesaler makes separate charges for the amounts so collected from him and collects the same from those purchasing from him as provided by chapter 245;
- (11) Federal excise taxes imposed on articles sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer;

- (12) The amounts of federal taxes under chapter 37 of the Internal Revenue Code, or similar federal taxes, imposed on sugar manufactured in the State, paid by the manufacturer to the federal government;
- (13) An amount up to, but not in excess of, \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging, or continuing, in any business, trade, activity, occupation, or calling within the State;
- (14) Amounts received by an organization enumerated under section 237-23(a)(5) to (8) from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
- (15) Amounts received by a producer of sugarcane from the manufacturer to whom he sells the sugarcane, where (A) the producer is an independent cane farmer, so classed by the secretary of agriculture under the Sugar Act of 1948 (61 Stat. 922, Chapter 519) as the Act may be amended or supplemented, and (B) the value of the sugar, and other products manufactured from the sugarcane, is included in the measure of the tax levied on the manufacturer under section 237-13(1), and (C) the producer's gross proceeds of sales are dependent upon the actual value of the products manufactured therefrom or the average value of all similar products manufactured by the manufacturer, and (D) the producer's gross proceeds of sales are reduced by reason of the tax on the value of the manufactured products;
- (16) Money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes;
- (17) Amounts received by a cooperative housing corporation from its shareholders in reimbursement of funds paid by such corporation for lease rental, real property taxes, and other expenses of operating and maintaining the cooperative land and improvements, provided that such a cooperative corporation is a corporation:
 - (A) Having one and only one class of stock outstanding;
 - (B) Each of the stockholders of which is entitled solely by reason of his ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building owned or leased by the corporation;
 - (C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation;
- (18) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped for a producer or produce dealer on one island of this State to a person, firm, or organization on another island of this State. The terms "agricultural commodity", "producer", and "produce dealer" shall be defined in the same manner as they are defined in section 147-1;
- (19) Amounts received from sales of (A) intoxicating liquor as defined in chapter 244D, (B) tobacco products as defined in chapter 245, and (C) agricultural, meat, or fish products grown, raised, or caught in Hawaii, when such sales are made to any person or common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out-of-state by such person, crew, or passengers on such shipper's vessels or airplanes;

- (20) Amounts received by the manager or board of directors of an association of apartment owners of a horizontal property regime established in accordance with chapter 514A in reimbursement of sums paid for common expenses;
- (21) Any provision of law to the contrary notwithstanding, exemptions or exclusions from tax under this chapter allowed on or before April 1, 1978, for amounts received by any person or common carrier engaged in interstate or foreign commerce, or both, whether ocean-going or air, shall continue undiminished and be available thereafter to the extent and under the conditions such exemptions or exclusions have theretofore been previously allowed in the State under the provisions of the Constitution of the United States or an act of the Congress of the United States; [and]
- (22) Amounts received by an employee benefit plan by way of contributions, dividends, interest, and other income; and amounts received by a nonprofit organization or office, as payments for costs and expenses incurred for the administration of an employee benefit plan. For the purposes of this paragraph, "employee benefit plan" means any plan as defined in section 1002(3) of title 29 of the United States Code, as amended[.];
- (23) Taxes on transient accommodations imposed by chapter and passed on and collected by operators holding certificates of registration under that chapter; and
- (24) Amounts received as dues by an unincorporated merchants association from its membership for advertising media, promotional, and advertising costs for the promotion of the association for the benefit of its members as a whole and not for the benefit of an individual member or group of members less than the entire membership."

SECTION 10. The department of taxation is directed to submit to the legislature ten days before the regular session of 1987, rules which have been adopted under chapter 91, Hawaii Revised Statutes, which clarify the operation of, and notify the public of the department's interpretation of, sections 237-18(f) and 237-20, Hawaii Revised Statutes.

SECTION 11. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the sum of \$779,920, or so much thereof as may be necessary for fiscal year 1986-1987, to carry out the purposes of section 1 of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the department of taxation.

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 14. This Act shall take effect upon its approval; provided that the tax imposed under section 1 of this Act shall take effect on January 1, 1987; provided that sections 7 and 8 of this Act are retroactive and shall apply to general excise taxes imposed under chapter 237, Hawaii Revised Statutes, on gross proceeds or gross income arising after June 30, 1985; and provided that section 9 of this Act shall apply to general excise taxes imposed under chapter

237, Hawaii Revised Statutes, on gross proceeds or gross income arising after June 30, 1986.

(Approved June 13, 1986.)

ACT 341

H.B. NO. 2845-86

A Bill for an Act Relating to the Uniform Commercial Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 490:1-201, Hawaii Revised Statutes, is amended as follows:

1. Subsection (5) is amended to read:

“(5) “Bearer” means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.”

2. Subsection (14) is amended to read:

“(14) “Delivery” with respect to instruments, documents of title, chattel paper, or certificated securities means voluntary transfer of possession.”

3. Subsection (20) is amended to read:

“(20) “Holder” means a person who is in possession of a document of title or an instrument or in¹ [an] a certificated investment security drawn, issued, or indorsed to the person¹ or the person’s¹ order or to bearer or in blank.”

SECTION 2. Section 490:5-114, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (section 490:7-507) or of a certificated security (section 490:8-306) or is forged or fraudulent or there is fraud in the transaction:

- (a) The issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (section 490:3-302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (section 490:7-502) or a bona fide purchaser of a certificated security (section 490:8-302); and
- (b) In all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents but a court of appropriate jurisdiction may enjoin such honor.”

SECTION 3. Article 8 of chapter 490, Hawaii Revised Statutes, is amended to read as follows:

“ARTICLE 8 INVESTMENT SECURITIES

PART 1. SHORT TITLE AND GENERAL MATTERS

§490:8-101 Short title. This Article shall be known and may be cited as Uniform Commercial Code-Investment Securities.

§490:8-102 Definitions and index of definitions. (1) In this Article, unless the context otherwise requires:

- [(a) A “security” is an instrument which
 - (i) Is issued in bearer or registered form; and
 - (ii) Is of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and
 - (iii) Is either one of a class or series or by its terms is divisible into a class or series of instruments; and
 - (iv) Evidences a share, participation or other interest in property or in an enterprise or evidences an obligation of the issuer.]
- (a) A “certificated security” is a share, participation, or other interest in property of or an enterprise of the issuer or an obligation of the issuer which is:
 - (i) Represented by an instrument issued in bearer or registered form;
 - (ii) Of a type commonly dealt in on securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and
 - (iii) Either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.
- (b) An “uncertificated security” is a share, participation, or other interest in property or an enterprise of the issuer or an obligation of the issuer which is:
 - (i) Not represented by an instrument and the transfer of which is registered upon books maintained for that purpose by or on behalf of the issuer;
 - (ii) Of a type commonly dealt in on securities exchanges or markets; and
 - (iii) Either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.
- [(b)] (c) A “security” is either a certificated or an uncertificated security. If a security is certificated, the terms “security” and “certificated security” may mean either the intangible interest, the instrument representing that interest, or both, as the context requires. A writing [which] that is a certificated security is governed by this Article and not by [Uniform Commercial Code-Commercial Paper] Article 3, even though it also meets the requirements of that Article. This Article does not apply to money. If a certificated security has been retained by or surrendered to the issuer or its transfer agent for reasons other than registration of transfer, other temporary purpose, payment, exchange, or acquisition by the issuer, that security shall be treated as an uncertificated security for purposes of this Article.

- [(c)] (d) A certificated security is in "registered form" [when it] if:
- (i) It specifies a person entitled to the security or the rights it [evidences] represents; and [when its]
 - (ii) Its transfer may be registered upon books maintained for that purpose by or on behalf of [an] the issuer, or the security so states.
- [(d)] (e) A certificated security is in "bearer form" [when] if it runs to bearer according to its terms and not by reason of any indorsement.
- (2) A "subsequent purchaser" is a person who takes other than by original issue.
- (3) A "clearing corporation" is a corporation registered as a "clearing agency" under the federal securities laws or a corporation:
- (a) [at] At least ninety per cent of [the] whose capital stock [of which] is held by or for one or more [persons (other than individuals),] organizations, none of which, other than a national securities exchange or association, holds in excess of twenty per cent of the capital stock of the corporation, and each of [whom] which is:
 - (i) [is subject] Subject to supervision or regulation pursuant to the provisions of federal or state banking laws or state insurance laws[, or];
 - (ii) [is a] A broker or dealer or investment company registered under the [Securities Exchange Act of 1934 or the Investment Company Act of 1940,] federal securities laws; or
 - (iii) [is a] A national securities exchange or association registered under [a statute of the United States such as the Securities Exchange Act of 1934,] the federal securities laws; and [none of whom, other than a national securities exchange or association, holds in excess of twenty per cent of the capital stock of such corporation; and]
 - (b) [any] Any remaining capital stock of which is held by individuals who have purchased [such capital stock] it at or prior to the time of their taking office as directors of [such] the corporation and who have purchased only so much of such capital stock as [may be] is necessary to permit them to qualify as [such] directors.
- (4) A "custodian bank" is [any] a bank or trust company [which] that is supervised and examined by state or federal authority having supervision over banks and [which] is acting as custodian for a clearing corporation.
- (5) Other definitions applying to this Article or to specified parts thereof and the sections in which they appear are:

"Adverse claim."	Section [490:8-301.] <u>490:8-302.</u>
"Bona fide purchaser."	Section 490:8-302.
"Broker."	Section 490:8-303.
"Debtor."	Section 490:9-105.
"Financial intermediary."	Section 490:8-313.
"Guarantee of the signature."	Section 490:8-402.
"Initial transaction statement."	Section 490:8-408.
"Instruction."	Section 490:8-308.
"Intermediary Bank."	Section 490:4-105.
"Issuer."	Section 490:8-201.
"Overissue."	Section 490:8-104.
"Secured Party."	Section 490:9-105.
"Security Agreement."	Section 490:9-105.

(6) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

§490:8-103 Issuer's lien. A lien upon a security in favor of an issuer thereof is valid against a purchaser only if:

- (a) The security is certificated and the right of the issuer to [such] the lien is noted conspicuously [on the security.] thereon; or
- (b) The security is uncertificated and a notation of the right of the issuer to the lien is contained in the initial transaction statement sent to the purchaser or, if the issuer's interest is transferred to the purchaser other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

§490:8-104 Effect of overissue; "overissue." (1) The provisions of this Article which validate a security or compel its issue or reissue do not apply to the extent that validation, issue, or reissue would result in overissue; but if:

- (a) [If an] An identical security which does not constitute an overissue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase [and deliver such a] the security [to] for [him] the person and either to deliver a certificated security or to register the transfer of an uncertificated security to said person, against surrender of [the] any certificated security[, if any, which he] the issuer holds; or
- (b) [If a] A security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price [he] the purchaser or the last purchaser for value paid for it with interest from the date of [his] the purchaser's demand.

(2) "Overissue" means the issue of securities in excess of the amount [which] the issuer has corporate power to issue.

§490:8-105 [Securities] Certificated securities negotiable; statements and instructions not negotiable; presumptions. (1) [Securities] Certificated securities governed by this Article are negotiable instruments.

(2) Statements (section 490:8-408), notices, or the like, sent by the issuer of uncertificated securities and instructions (section 490:8-308) are neither negotiable instruments nor certificated securities.

[(2)] (3) In any action on a security:

- (a) Unless specifically denied in the pleadings, each signature on [the] a certificated security [or], in a necessary indorsement, on an initial transaction statement, or on an instruction, is admitted;
- (b) [When] If the effectiveness of a signature is put in issue, the burden of establishing it is on the party claiming under the signature, but the signature is presumed to be genuine or authorized;
- (c) [When] If signatures on a certificated security are admitted or established, production of the [instrument] security entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security; [and]
- (d) If signatures on an initial transaction statement are admitted or established, the facts stated in the statement are presumed to be true as of the time of its issuance; and
- [(d)] (e) After it is shown that a defense or defect exists, the plaintiff has the burden of establishing that [he] the plaintiff or some person under whom [he] the plaintiff claims is a person against whom the defense or defect is ineffective (section 490:8-202).

§490:8-106 Applicability. The law (including the conflict of laws rules) of the jurisdiction of organization of the issuer governs the validity of a security, the effectiveness of registration by the issuer, and the rights and duties of the issuer with respect to:

- (a) [registration] Registration of transfer of a certificated security;
- (b) Registration of transfer, pledge, or release of an uncertificated security; and
- (c) Sending of statements of uncertificated securities.

[are governed by the law (including the conflict of laws rules) of the jurisdiction of organization of the issuer.]

§490:8-107 Securities [deliverable;] transferable; action for price. (1) Unless otherwise agreed and subject to any applicable law or regulation respecting short sales, a person obligated to [deliver] transfer securities may [deliver] transfer any certificated security of the specified issue in bearer form or registered in the name of the transferee, or indorsed to [him] the transferee, or in blank[.], or the transferor may transfer an equivalent uncertificated security to the transferee or a person designated by the transferee.

(2) [When] If the buyer fails to pay the price as it comes due under a contract of sale, the seller may recover the price of:

- (a) [Of] Certificated securities accepted by the buyer; [and]
- (b) Uncertificated securities that have been transferred to the buyer or a person designated by the buyer; and
- [(b)] (c) [Of other] Other securities if efforts at their resale would be unduly burdensome or if there is no readily available market for their resale.

§490:8-108 Registration of pledge and release of uncertificated securities. A security interest in an uncertificated security may be evidenced by the registration of pledge to the secured party or a person designated by the secured party. There can be no more than one registered pledge of an uncertificated security at any time. The registered owner of an uncertificated security is the person in whose name the security is registered, even if the security is subject to a registered pledge. The rights of a registered pledgee of an uncertificated security under this Article are terminated by the registration of release.

PART 2. ISSUE - ISSUER

§490:8-201 "Issuer." (1) With respect to obligations on or defenses to a security, "issuer" includes a person who:

- (a) Places or authorizes the placing of [his] the issuer's name on a certificated security (otherwise than as authenticating trustee, registrar, transfer agent, or the like) to evidence that it represents a share, participation, or other interest in [his] the issuer's property or in an enterprise, or to evidence [his] the issuer's duty to perform an obligation [evidenced] represented by the certificated security; [or]
- (b) Creates shares, participations, or other interests in the issuer's property or in an enterprise or undertakes obligations, which shares, participations, interests, or obligations are uncertificated securities;
- [(b)] (c) Directly or indirectly creates fractional interests in [his] the issuer's rights or property, which fractional interests are [evidenced] represented by certificated securities; or
- [(c)] (d) Becomes responsible for or in place of any other person described as an issuer in this section.

(2) With respect to obligations on or defenses to a security, a guarantor is an issuer to the extent of [his] the guarantor's guaranty, whether or not [his] the

guarantor's obligation is noted on [the] a certificated security[.] or on statements of uncertificated securities sent pursuant to section 490:8-408.

(3) With respect to registration of transfer, pledge, or release (Part 4 of this Article), "issuer" means a person on whose behalf transfer books are maintained.

§490:8-202 Issuer's responsibility and defenses; notice of defect or defense. (1) Even against a purchaser for value and without notice, the terms of a security include:

- (a) If the security is certificated, those stated on the security;
- (b) If the security is uncertificated, those contained in the initial transaction statement sent to such purchaser, or if the purchaser's interest is transferred to the purchaser other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or registered pledgee; and [those]
- (c) Those made part of the security by reference, on the certificated security or in the initial transaction statement, to another instrument, indenture, or document or to a constitution, statute, ordinance, rule, regulation, order or the like, to the extent that the terms [so] referred to do not conflict with the [stated] terms[.] stated on the certificated security or contained in the statement. [Such a] A reference under this paragraph does not of itself charge a purchaser for value with notice of a defect going to the validity of the security, even though the certificated security or statement expressly states that a person accepting it admits [such] notice.

[(2)(a)] (2) A certificated security in the hands of a purchaser for value or an uncertificated security as to which an initial transaction statement has been sent to a purchaser for value, other than [one] a security issued by a government or governmental agency or unit, even though issued with a defect going to its validity, is valid [in the hands of a] with respect to the purchaser [for value and] if the purchaser is without notice of the particular defect unless the defect involves a violation of constitutional provisions, in which case the security is valid [in the hands of] with respect to a subsequent purchaser for value and without notice of the defect. [(b) The rule of subparagraph (a)] This subsection applies to an issuer [which] that is a government or governmental agency or unit only if either there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(3) Except as [otherwise] provided in the case of certain unauthorized signatures [on issue] (section 490:8-205), lack of genuineness of a certificated security or an initial transaction statement is a complete defense, even against a purchaser for value and without notice.

(4) All other defenses of the issuer of a certificated or uncertificated security, including nondelivery and conditional delivery of [the] a certificated security, are ineffective against a purchaser for value who has taken without notice of the particular defense.

(5) Nothing in this section shall be construed to affect the right of a party to a "when, as and if issued" or a "when distributed" contract to cancel the contract in the event of a material change in the character of the security [which] that is the subject of the contract or in the plan or arrangement pursuant to which [such] the security is to be issued or distributed.

§490:8-203 Staleness as notice of defects or defenses. (1) After an act or event [which creates] creating a right to immediate performance of the principal obligation [evidenced] represented by [the] a certificated security or [which] that sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer if:

- (a) [If the] The act or event is one requiring the payment of money [or], the delivery of certificated securities, the registration of transfer of uncertificated securities, or [both] any of these on presentation or surrender of the certificated security [and such], the funds or securities are available on the date set for payment or exchange, and [he] the purchaser takes the security more than one year after that date; and
- (b) [If the] The act or event is not covered by paragraph (a) and [he] the purchaser takes the security more than two years after the date set for surrender or presentation or the date on which [such] performance became due.
- (2) A call [which] that has been revoked is not within subsection (1).

§490:8-204 Effect of issuer's restrictions on transfer. [Unless noted conspicuously on the security a] A restriction on transfer of a security imposed by the issuer, even though otherwise lawful, is ineffective [except] against [a] any person [with] without actual knowledge of it[.] unless:

- (a) The security is certificated and the restriction is noted conspicuously thereon; or
- (b) The security is uncertificated and a notation of the restriction is contained in the initial transaction statement sent to the person or, if the person's interest is transferred to the person other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

§490:8-205 Effect of unauthorized signature on [issue.] certificated security or initial transaction statement. An unauthorized signature placed on a certificated security prior to or in the course of issue or placed on an initial transaction statement is ineffective, [except that] but the signature is effective in favor of a purchaser for value [and] of the certificated security or a purchaser for value of an uncertificated security to whom such initial transaction statement has been sent, if the purchaser is without notice of the lack of authority [if] and the signing has been done by:

- (a) An authenticating trustee, registrar, transfer agent, or other person entrusted by the issuer with the signing of the security [or], of similar securities, or of initial transaction statements or [their] the immediate preparation for signing[.] of any of them; or
- (b) An employee of the issuer, or of any of the foregoing, entrusted with responsible handling of the security[.] or initial transaction statement.

§490:8-206 Completion or alteration of [instrument.] certificated security or initial transaction statement. (1) [Where] If a certificated security contains the signatures necessary to its issue or transfer but is incomplete in any other respect:

- (a) Any person may complete it by filling in the blanks as authorized; and

- (b) Even though the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of [such] the incorrectness.
- (2) A complete certificated security [which] that has been improperly altered, even though fraudulently, remains enforceable, but only according to its original terms.
- (3) If an initial transaction statement contains the signatures necessary to its validity, but is incomplete in any other respect:
 - (a) Any person may complete it by filling in the blanks as authorized; and
 - (b) Even though the blanks are incorrectly filled in, the statement as completed is effective in favor of the person to whom it is sent if the person purchased the security referred to therein for value and without notice of the incorrectness.
- (4) A complete initial transaction statement that has been improperly altered, even though fraudulently, is effective in favor of a purchaser to whom it has been sent, but only according to its original terms.

§490:8-207 Rights and duties of issuer with respect to registered owners[,] and registered pledgees. (1) Prior to due presentment for registration of transfer of a certificated security in registered form, the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.

(2) Subject to the provisions of subsections (3), (4), and (6), the issuer or indenture trustee may treat the registered owner of an uncertificated security as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.

(3) The registered owner of an uncertificated security that is subject to a registered pledge is not entitled to registration of transfer prior to the due presentment to the issuer of a release instruction. The exercise of conversion rights with respect to a convertible uncertificated security is a transfer within the meaning of this section.

(4) Upon due presentment of a transfer instruction from the registered pledgee of an uncertificated security, the issuer shall:

- (a) Register the transfer of the security to the new owner free of pledge, if the instruction specifies a new owner (who may be the registered pledgee) and does not specify a pledgee;
 - (b) Register the transfer of the security to the new owner subject to the interest of the existing pledgee, if the instruction specifies a new owner and the existing pledgee; or
 - (c) Register the release of the security from the existing pledge and register the pledge of the security to the other pledgee, if the instruction specifies the existing owner and another pledgee.
- (5) Continuity of perfection of a security interest is not broken by registration of transfer under subsection (4)(b) or by registration of release and pledge under subsection (4)(c), if the security interest is assigned.

(6) If an uncertificated security is subject to a registered pledge:

- (a) Any uncertificated securities issued in exchange for or distributed with respect to the pledged security shall be registered subject to the pledge;
- (b) Any certificated securities issued in exchange for or distributed with respect to the pledged security shall be delivered to the registered pledgee; and

- (c) Any money paid in exchange for or in redemption of part or all of the security shall be paid to the registered pledgee.

[(2)] (7) Nothing in this Article shall be construed to affect the liability of the registered owner of a security for calls, assessments, or the like.

§490:8-208 Effect of signature of authenticating trustee, registrar, or transfer agent. (1) A person placing [his] the person's signature upon a certificated security or an initial transaction statement as authenticating trustee, registrar, transfer agent, or the like, warrants to a purchaser for value of the certificated security or a purchaser for value of an uncertificated security to whom the initial transaction statement has been sent, if the purchaser is without notice of the particular defect, that:

- (a) The certificated security or initial transaction statement is genuine; [and]
- (b) [His] The person's own participation in the issue or registration of the transfer, pledge, or release of the security is within [his] the person's capacity and within the scope of the [authorization] authority received by [him] the person from the issuer; and
- (c) [He] The person has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person by so placing [his] the person's signature does not assume responsibility for the validity of the security in other respects.

PART 3. [PURCHASE] TRANSFER

§490:8-301 Rights acquired by purchaser[; "adverse claim"; title acquired by bona fide purchaser]. (1) Upon [delivery] transfer of a security to a purchaser (section 490:8-313), the purchaser acquires the rights in the security which [his] the purchaser's transferor had or had actual authority to convey unless the purchaser's rights are limited by section 490:8-302(4). [except that a purchaser who has himself been a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim cannot improve his position by taking from a later bona fide purchaser. "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security.

(2) A bona fide purchaser in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim.

(3)] (2) A [purchaser] transferee of a limited interest acquires rights only to the extent of the interest [purchased.] transferred. The creation or release of a security interest in a security is the transfer of a limited interest in that security.

§490:8-302 "Bona fide purchaser[.]; "adverse claim"; title acquired by bona fide purchaser. (1) A "bona fide purchaser" is a purchaser for value in good faith and without notice of any adverse claim:

- (a) [who] Who takes delivery of a certificated security in bearer form or [of one] in registered form, issued [to him] or indorsed to [him] the purchaser or in blank[.];
- (b) To whom the transfer, pledge, or release of an uncertificated security is registered on the books of the issuer; or
- (c) To whom a security is transferred under the provisions of paragraph (c), (d)(i), or (g) of section 490:8-313(1).

(2) "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security.

(3) A bona fide purchaser in addition to acquiring the rights of a purchaser (section 490:8-301) also acquires an interest in the security free of any adverse claim.

(4) Notwithstanding section 490:8-301(1), the transferee of a particular certificated security who has been a party to any fraud or illegality affecting the security, or who as a prior holder of that certificated security had notice of an adverse claim, cannot improve the transferee's position by taking from a bona fide purchaser.

§490:8-303 "Broker." "Broker" means a person engaged [for all] full or part [of his] time in the business of buying and selling securities, who in the transaction concerned acts for, [or] buys a security from, or sells a security to, a customer. Nothing in this Article determines the capacity in which a person acts for purposes of any other statute or rule to which [such] the person is subject.

§490:8-304 Notice to purchaser of adverse claims. (1) A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) of a certificated security is charged with notice of adverse claims if:

- (a) The security, whether in bearer or registered form, has been indorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or
- (b) The security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor. The mere writing of a name on a security is not such a statement.

(2) A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) to whom the transfer, pledge, or release of an uncertificated security is registered is charged with notice of adverse claims as to which the issuer has a duty under section 490:8-403(4) at the time of registration and which are noted in the initial transaction statement sent to the purchaser or, if the issuer's interest is transferred to the purchaser other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

[(2)] (3) The fact that the purchaser (including a broker for the seller or buyer) of a certificated or uncertificated security has notice that the security is held for a third person or is registered in the name of or indorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute constructive notice of adverse claims. [If, however,] However, if the purchaser (excluding an intermediary bank) has knowledge that the proceeds are being used or [that] the transaction is for the individual benefit of the fiduciary or otherwise in breach of duty, the purchaser is charged with notice of adverse claims.

§490:8-305 Staleness as notice of adverse claims. An act or event [which] that creates a right to immediate performance of the principal obligation [evidenced] represented by [the] a certificated security or [which] sets a date on or after which [the] a certificated security is to be presented or surrendered for redemption or exchange does not [of] itself constitute any notice of adverse claims except in the case of a [purchase] transfer;

- (a) After one year from any date set for [such] presentment or surrender for redemption or exchange; or
- (b) After six months from any date set for payment of money against presentation or surrender of the security if funds are available for payment on that date.

§490:8-306 Warranties on presentment and transfer[.] of certificated securities; warranties of originators of instructions. (1) A person who presents a certificated security for registration of transfer or for payment or exchange warrants to the issuer that [he] the purchaser is entitled to the registration, payment, or exchange. But, a purchaser for value and without notice of adverse claims who receives a new, reissued, or re-registered certificated security on registration of transfer or receives an initial transaction statement confirming the registration of transfer of an equivalent uncertificated security to the purchaser warrants only that [he] the purchaser has no knowledge of any unauthorized signature (section 490:8-311) in a necessary indorsement.

(2) A person by transferring a certificated security to a purchaser for value warrants only that:

- (a) [His] The person's transfer is effective and rightful; [and]
- (b) The security is genuine and has not been materially altered; and
- (c) [He] The person knows of no fact which might impair the validity of the security.

(3) [Where] If a certificated security is delivered by an intermediary known to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against [such] delivery, the intermediary by [such] delivery warrants only [his] the intermediary's own good faith and authority, even though [he] the intermediary has purchased or made advances against the claim to be collected against the delivery.

(4) A pledgee or other holder for security who redelivers [the] a certificated security received, or after payment and on order of the debtor delivers that security to a third person, makes only the warranties of an intermediary under subsection (3).

(5) A person who originates an instruction warrants to the issuer that:

- (a) The person is an appropriate person to originate the instruction; and
- (b) At the time the instruction is presented to the issuer the issuer will be entitled to the registration of transfer, pledge, or release.

(6) A person who originates an instruction warrants to any person specially guaranteeing the person's signature (section 490:8-312(3)) that:

- (a) The person is an appropriate person to originate the instruction; and
- (b) At the time the instruction is presented to the issuer:
 - (i) The person will be entitled to the registration of transfer, pledge, or release; and
 - (ii) The transfer, pledge, or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(7) A person who originates an instruction warrants to a purchaser for value and to any person guaranteeing the instruction (section 490:8-312(6)) that:

- (a) The person is an appropriate person to originate the instruction;
- (b) The uncertificated security referred to therein is valid; and
- (c) At the time the instruction is presented to the issuer:
 - (i) The transferor will be entitled to the registration of transfer, pledge, or release;
 - (ii) The transfer, pledge, or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction; and

(iii) The requested transfer, pledge, or release will be rightful.

(8) If a secured party is the registered pledgee or the registered owner of an uncertificated security, a person who originates an instruction of release or transfer to the debtor or, after payment and on order of the debtor, a transfer instruction to a third person, warrants to the debtor or the third person only that the person is an appropriate person to originate the instruction and at the time the instruction is presented to the issuer, the transferor will be entitled to the registration of release or transfer. If a transfer instruction to a third person who is a purchaser for value is originated on order of the debtor, the debtor makes to the purchaser the warranties of paragraphs (b), (c)(ii) and (c)(iii) of subsection (7).

(9) A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants only that:

(a) The transfer is effective and rightful; and

(b) The uncertificated security is valid.

[(5)] (10) A broker gives to [his] a customer and to the issuer and a purchaser the applicable warranties provided in this section and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of [his] the broker's customer.

§490:8-307 Effect of delivery without indorsement; right to compel indorsement. [Where] If a certificated security in registered form has been delivered to a purchaser without a necessary indorsement [he] the purchaser may become a bona fide purchaser only as of the time the indorsement is supplied[,]; but against the transferor, the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied.

§490:8-308 [Indorsement, how made; special indorsement; indorser not a guarantor; partial assignment.] Indorsements; instructions. (1) An indorsement of a certificated security in registered form is made when an appropriate person signs on it or on a separate document an assignment or transfer of the security or a power to assign or transfer it or when the signature of such person is written without more upon the back of the security.

(2) An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies [the person] to whom the security is to be transferred, or who has power to transfer it. A holder may convert a blank indorsement into a special indorsement.

(3) An indorsement purporting to be only of part of a certificated security representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.

(4) An "instruction" is an order to the issuer of an uncertificated security requesting that the transfer, pledge, or release from pledge of the uncertificated security specified therein be registered.

(5) An instruction originated by an appropriate person is:

(a) A writing signed by an appropriate person; or

(b) A communication to the issuer in any form agreed upon in a writing signed by the issuer and an appropriate person.

If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed even though it has been completed incorrectly.

[(3)] (6) “An appropriate person” in subsection (1) means [(a) The] the person specified by the certificated security or by special indorsement to be entitled to the security[; or].

(7) “An appropriate person” in subsection (5) means:

(a) For an instruction to transfer or pledge an uncertificated security which is then not subject to a registered pledge, the registered owner; or

(b) For an instruction to transfer or release an uncertificated security which is then subject to a registered pledge, the registered pledgee.

(8) In addition to the persons designated in subsections (6) and (7), “an appropriate person” in subsections (1) and (5) includes:

[(b) Where] (a) If the person [so specified] designated is described as a fiduciary but is no longer serving in the described capacity, [-] either that person or [his] a successor to that person; [or

(c) Where] (b) If the [security or indorsement so specifies] persons designated are described as more than one person as fiduciaries and one or more are no longer serving in the described capacity, [-] the remaining fiduciary or fiduciaries, whether or not a successor has been appointed or qualified; [or

(d) Where] (c) If the person [so specified] designated is an individual and is without capacity to act by virtue of death, incompetence, infancy, or otherwise, [- his] the person’s personal representative, guardian, or like fiduciary; [or

(e) Where] (d) If the [security or indorsement so specifies] persons designated are described as more than one person as tenants by the entirety or with right of survivorship and by reason of death all cannot sign, [-] the survivor or survivors; [or

(f) (e) A person having power to sign under applicable law or controlling instrument; [or] and

[(g)] (f) To the extent that the person designated or any of the foregoing persons may act through an agent, [-] [his] an authorized agent.

[(4)] (9) Unless otherwise agreed, the indorser of a certificated security by [his] an indorsement or the originator of an instruction by an origination assumes no obligation that the security will be honored by the issuer[.] but only the obligations provided in section 490:8-306.

[(5) An indorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.]

[(6)] (10) Whether the person signing is appropriate is determined as of the date of signing and an indorsement made by or an instruction originated by such a person does not become unauthorized for the purposes of this Article by virtue of any subsequent change of circumstances.

[(7)] (11) Failure of a fiduciary to comply with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, pledge, or release, does not render [his] the fiduciary’s indorsement or an instruction originated by the fiduciary unauthorized for the purposes of this Article.

§490:8-309 Effect of indorsement without delivery. An indorsement of a certificated security, whether special or in blank, does not constitute a transfer until delivery of the certificated security on which it appears or, if the indorsement is on a separate document, until delivery of both the document and the certificated security.

§490:8-310 Indorsement of certificated security in bearer form. An indorsement of a certificated security in bearer form may give notice of adverse claims (section 490:8-304) but does not otherwise affect any right to registration the holder [may possess.] possesses.

§490:8-311 Effect of unauthorized indorsement[.] or instruction. Unless the owner or pledgee has ratified an unauthorized indorsement or instruction or is otherwise precluded from asserting its ineffectiveness:

- (a) [He] The owner or pledgee may assert its ineffectiveness against the issuer or any purchaser, other than a purchaser for value and without notice of adverse claims, who has in good faith received a new, reissued, or reregistered certificated security on registration of transfer[.] or received an initial transaction statement confirming the registration of transfer, pledge, or release of an equivalent uncertificated security to the purchaser; and
- (b) An issuer who registers the transfer of a certificated security upon the unauthorized indorsement or who registers the transfer, pledge, or release of an uncertificated security upon the unauthorized instruction is subject to liability for improper registration (section 490:8-404).

§490:8-312 Effect of guaranteeing signature [or] indorsement[.] or instruction. (1) Any person guaranteeing a signature of an indorser of a certificated security warrants that at the time of signing:

- (a) The signature was genuine; [and]
- (b) The signer was an appropriate person to indorse (section 490:8-308); and
- (c) The signer had legal capacity to sign.

[But the guarantor does not otherwise warrant the rightfulness of the particular transfer.]

(2) Any person guaranteeing a signature of the originator of an instruction warrants that at the time of signing:

- (a) The signature was genuine;
- (b) The signer was an appropriate person to originate the instruction (section 490:8-308) if the person specified in the instruction as the registered owner or registered pledgee of the uncertificated security was, in fact, the registered owner or registered pledgee of such security, as to which fact the signature guarantor makes no warranty;
- (c) The signer had legal capacity to sign; and
- (d) The taxpayer identification number, if any, appearing on the instruction as that of the registered owner or registered pledgee was the taxpayer identification number of the signer or of the owner or pledgee for whom the signer was acting.

(3) Any person specially guaranteeing the signature of the originator of an instruction makes not only the warranties of a signature guarantor (subsection (2)) but also warrants that at the time the instruction is presented to the issuer:

- (a) The person specified in the instruction as the registered owner or registered pledgee of the uncertificated security will be the registered owner or registered pledgee; and
- (b) The transfer, pledge, or release of the uncertificated security requested in the instruction will be registered by the issuer free from

all liens, security interests, restrictions, and claims other than those specified in the instruction.

(4) The guarantor under subsections (1) and (2) or the special guarantor under subsection (3) does not otherwise warrant the rightfulness of the particular transfer, pledge, or release.

[(2)] (5) Any person [may guarantee] guaranteeing an indorsement of a certificated security [and by so doing warrants not only the signature (subsection 1)] makes not only the warranties of a signature guarantor under subsection (1) but also warrants the rightfulness of the particular transfer in all respects. [But no issuer may require a guarantee of indorsement as a condition to registration of transfer.]

(6) Any person guaranteeing an instruction requesting the transfer, pledge, or release of an uncertificated security makes not only the warranties of a special signature guarantor under subsection (3) but also warrants the rightfulness of the particular transfer, pledge, or release in all respects.

(7) No issuer may require a special guarantee of signature (subsection (3)), a guarantee of indorsement (subsection (5)), or a guarantee of instruction (subsection (6)) as a condition to registration of transfer, pledge, or release.

[(3)] (8) The foregoing warranties are made to any person taking or dealing with the security in reliance on the guarantee, and the guarantor is liable to [such] the person for any loss resulting from breach of the warranties.

§490:8-313 When [delivery] transfer to [the] purchaser occurs[; purchaser's broker as holder,]; financial intermediary as bona fide purchaser; "financial intermediary."¹ (1) [Delivery] Transfer of a security or a limited interest (including a security interest) therein to a purchaser occurs only [when]:

- (a) [He] At the time the purchaser or a person designated by [him] the purchaser acquires possession of a certificated security; [or]
- (b) At the time the transfer, pledge, or release of an uncertificated security is registered to the purchaser or a person designated by the purchaser;
- [(b)] (c) [His broker] At the time the purchasers financial intermediary acquires possession of a certificated security specially indorsed to or issued in the name of the purchaser; [or]
- [(c)] (d) [His broker] At the time a financial intermediary, not a clearing corporation, sends [him] the purchaser confirmation of the purchase and also by book entry or otherwise identifies [a specific security in the broker's possession] as belonging to the purchaser[; or]:
 - (i) A specific certificated security in the financial intermediary's possession;
 - (ii) A quantity of securities that constitute or are part of a fungible bulk of certificated securities in the financial intermediary's possession or of uncertificated securities registered in the name of the financial intermediary; or
 - (iii) A quantity of securities that constitute or are part of a fungible bulk of securities shown on the account of the financial intermediary on the books of another financial intermediary;
- [(d)] (e) With respect to an identified certificated security to be delivered while still in the possession of a third person, not a financial intermediary, [when] at the time that person acknowledges [that he holds] holding for the purchaser; [or]
- (f) With respect to a specific uncertificated security the pledge or transfer of which has been registered to a third person, not a

financial intermediary, at the time that person acknowledges that holding for the purchaser;

- [(e) Appropriate] (g) At the time appropriate entries to the account of the purchaser or a person designated by the purchaser on the books of a clearing corporation are made under section 490:8-320[.];
- (h) With respect to the transfer of a security interest where the debtor has signed a security agreement containing a description of the security, at the time a written notification, which, in the case of the creation of the security interest, is signed by the debtor (which may be a copy of the security agreement) or which, in the case of the release or assignment of the security interest created pursuant to this paragraph, is signed by the secured party, is received by:
 - (i) A financial intermediary on whose books the interest of the transferor in the security appears;
 - (ii) A third person, not a financial intermediary, in possession of the security, if it is certificated;
 - (iii) A third person, not a financial intermediary, who is the registered owner of the security, if it is uncertificated and not subject to a registered pledge; or
 - (iv) A third person, not a financial intermediary, who is the registered pledgee of the security, if it is uncertificated and subject to a registered pledge;
- (i) With respect to the transfer of a security interest where the transferor has signed a security agreement containing a description of the security, at the time new value is given by the secured party;
or
- (j) With respect to the transfer of a security interest where the secured party is a financial intermediary and the security has already been transferred to the financial intermediary under paragraphs (a), (b), (c), (d), or (g), at the time the transferor has signed a security agreement containing a description of the security and value is given by the secured party.

(2) The purchaser is the owner of a security held for [him] the purchaser by [his broker,] a financial intermediary, but [is not the holder] cannot be a bona fide purchaser of a security so held except [as] in the circumstances specified in [subparagraphs] paragraphs [(b)] (c), (d)(i), and [(e)] (g) of subsection (1). [Where] If a security so held is part of a fungible bulk, as in the circumstances specified in paragraphs (d)(ii) and (d)(iii) of subsection (1), the purchaser is the owner of a proportionate property interest in the fungible bulk.

(3) Notice of an adverse claim received by the [broker] financial intermediary or by the purchaser after the [broker] financial intermediary takes delivery of a certificated security as a holder for value or after the transfer, pledge, or release of an uncertificated security has been registered free of the claim to a financial intermediary who has given value is not effective either as to the [broker] financial intermediary or as to the purchaser. However, as between the [broker] financial intermediary and the purchaser, the purchaser may demand [delivery] transfer of an equivalent security as to which no notice of [an] adverse claim has been received.

(4) A "financial intermediary" is a bank, broker, clearing corporation or other person (or the nominee of any of them) which in the ordinary course of its business maintains security accounts for its customers and is acting in that capacity. A financial intermediary may have a security interest in securities held in account for its customer.

§490:8-314 Duty to [deliver,] transfer, when completed. (1) Unless otherwise agreed [where], if a sale of a security is made on an exchange or otherwise through brokers:

- (a) The selling customer fulfills [his] the customer's duty to [deliver when] transfer at the time [he] the customer:
 - (i) [places such] Places a certificated security in the possession of the selling broker or of a person designated by the broker [or if requested causes an acknowledgment to be made to the selling broker that it is held for him; and];
 - (ii) Causes an uncertificated security to be registered in the name of the selling broker or a person designated by the broker;
 - (iii) If requested, causes an acknowledgment to be made to the selling broker that a certificated or uncertificated security is held for the broker; or
 - (iv) Places in the possession of the selling broker or of a person designated by the broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within thirty days thereafter; and
- (b) The selling broker, including a correspondent broker acting for a selling customer, fulfills [his] the broker's duty to [deliver by placing the] transfer at the time the broker:
 - (i) Places a certificated security [or a like security] in the possession of the buying broker or a person designated by [him or by effecting] the buying broker;
 - (ii) Causes an uncertificated security to be registered in the name of the buying broker or a person designated by the buying broker;
 - (iii) Places in the possession of the buying broker or of a person designated by the buying broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within thirty days thereafter; or
 - (iv) Effects clearance of the sale in accordance with the rules of the exchange on which the transaction took place.
- (2) Except as [otherwise] provided in this section and unless otherwise agreed, a transferor's duty to [deliver] transfer a security under a contract of purchase is not fulfilled until [he] the transferor:
 - (a) [places the] Places a certificated security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by [him or at the purchaser's request causes an acknowledgment to be made to] the purchaser [that it is held for him.];
 - (b) Causes an uncertificated security to be registered in the name of the purchaser or a person designated by the purchaser; or
 - (c) If the purchaser requests, causes an acknowledgment to be made to the purchaser that a certificated or uncertificated security is held for the purchaser.
- (3) Unless made on an exchange, a sale to a broker purchasing for [his] the broker's own account is within [this] subsection (2) and not within subsection (1).

§490:8-315 Action against [purchaser] transferee based upon wrongful transfer. (1) Any person against whom the transfer of a security is wrongful for

any reason, including [his] the person's incapacity; [may] as against anyone except a bona fide purchaser, may:

- (a) [reclaim] Reclaim possession of the certificated security wrongfully transferred; [or obtain]
- (b) Obtain possession of any new certificated security [evidencing] representing all or part of the same rights; [or have]
- (c) Compel the origination of an instruction to transfer to the person or another person designated by the person an uncertificated security constituting all or part of the same rights; or
- (d) Have damages.

(2) If the transfer is wrongful because of an unauthorized indorsement[,]
of a certificated security, the owner may also reclaim or obtain possession of the security or a new certificated security, even from a bona fide purchaser, if the ineffectiveness of the purported indorsement can be asserted against [him] the bona fide purchaser under the provisions of this Article on unauthorized indorsements (section 490:8-311).

(3) The right to obtain or reclaim possession of a certificated security or to compel the origination of a transfer instruction may be specifically enforced and [its] the transfer of a certificated or uncertificated security enjoined and [the] a certificated security impounded pending the litigation.

§490:8-316 Purchaser's right to requisites for registration of transfer, pledge, or release on books. Unless otherwise agreed, the transferor of a certificated security or the transferor, pledgor, or pledgee of an uncertificated security [must] on due demand must supply [his] the transferor's purchaser with any proof of [his] the transferor's authority to transfer, pledge, or release or with any other requisite [which may be] necessary to obtain registration of the transfer, pledge, or release of the security; but if the transfer, pledge, or release is not for the¹ value, a transferor, pledgor, or pledgee need not do so unless the purchaser furnishes the necessary expenses. Failure within a reasonable time to comply with a demand made [within a reasonable time] gives the purchaser the right to reject or rescind the transfer[,], pledge, or release.

§490:8-317 [Attachment or levy upon security.] Creditors' rights. (1) [No] Subject to the exceptions in subsections (3) and (4), no attachment or levy upon a certificated security or any share or other interest [evidenced] represented thereby which is outstanding [shall be] is valid until the security is actually seized by the officer making the attachment or levy, but a certificated security which has been surrendered to the issuer may be [attached or levied upon at the source.] reached by a creditor by legal process at the issuer's chief executive office in the United States.

(2) An uncertificated security registered in the name of the debtor may not be reached by a creditor except by legal process at the issuer's chief executive office in the United States.

(3) The interest of a debtor in a certificated security that is in the possession of a secured party not a financial intermediary or in an uncertificated security registered in the name of a secured party not a financial intermediary (or in the name of a nominee of the secured party) may be reached by a creditor by legal process upon the secured party.

(4) The interest of a debtor in a certificated security that is in the possession of or registered in the name of a financial intermediary or in an uncertificated security registered in the name of a financial intermediary may be reached by a creditor by legal process upon the financial intermediary on whose books the interest of the debtor appears.

(5) Unless otherwise provided by law, a creditor's lien upon the interest of a debtor in a security obtained pursuant to subsection (3) or (4) is not a restraint on the transfer of the security, free of the lien, to a third party for new value; but in the event of a transfer, the lien applies to the proceeds of the transfer in the hands of the secured party or financial intermediary, subject to any claims having priority.

[(2)] (6) A creditor whose debtor is the owner of a security [shall be] is entitled to [such] aid from courts of appropriate jurisdiction, by injunction or otherwise, in reaching [such] the security or in satisfying the claim by means [thereof as is] allowed at law or in equity in regard to property [which] that cannot readily be [attached or levied upon] reached by ordinary legal process.

§490:8-318 No conversion by good faith [delivery.] conduct. An agent or bailee who in good faith (including observance of reasonable commercial standards if he is in the business of buying, selling, or otherwise dealing with securities) has received certificated securities and sold, pledged, or delivered them or has sold or caused the transfer or pledge of uncertificated securities over which the agent or bailee had control according to the instructions of [his] a principal, is not liable for conversion or for participation in breach of fiduciary duty although the principal had no right [to dispose of them.] so to deal with the securities.

§490:8-319 Statute of frauds. A contract for the sale of securities is not enforceable by way of action or defense unless:

- (a) There is some writing signed by the party against whom enforcement is sought or by [his] the party's authorized agent or broker, sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price; [or]
- (b) Delivery of [the] a certificated security or transfer instruction has been accepted, or transfer of an uncertificated security has been registered and the transferee has failed to send written objection to the issuer within ten days after receipt of the initial transaction statement confirming the registration, or payment has been made, but the contract is enforceable under this provision only to the extent of [such] the delivery, registration, or payment; [or]
- (c) Within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under paragraph (a) has been received by the party against whom enforcement is sought and [he] the party has failed to send written objection to its contents within ten days after its receipt; or
- (d) The party against whom enforcement is sought admits in [his] the party's pleading, testimony, or otherwise in court that a contract was made for the sale of a stated quantity of described securities at a defined or stated price.

§490:8-320 Transfer or pledge within [a] central depository system. (1) In addition to other methods, a transfer, pledge, or release of a security or any interest therein may be effected by the making of appropriate entries on the books of a clearing corporation reducing the account of the transferor, pledgor, or pledgee and increasing the account of the transferee, pledgee, or pledgor by the amount of the obligation, or the number of shares or rights transferred, pledged, or released, if the security is shown on the account of a transferor, pledgor, or pledgee on the books of the clearing corporation; is subject to the control of the clearing corporation; and

- (a) If [a security] certificated,
 - [(a)] (i) Is in the custody of [a] the clearing corporation, another clearing corporation, [or of] a custodian bank or a nominee of [either subject to the instructions of the clearing corporation;] any of them; and
 - [(b)] (ii) Is in bearer form or indorsed in blank by an appropriate person or registered in the name of the clearing corporation [or], a custodian bank, or a nominee of [either; and] any of them; or
- (b) If uncertificated, is registered in the name of the clearing corporation, another clearing corporation, a custodian bank, or a nominee of any of them.
- [(c)] is shown on the account of a transferor or pledgor on the books of the clearing corporation;

then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries on the books of the clearing corporation reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged.]

(2) Under this section entries may be made with respect to like securities or interests therein as a part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number, or the like, and, in appropriate cases, may be on a net basis taking into account other transfers [or], pledges, or releases of the same security.

(3) A transfer [or pledge] under this section [has the effect of a delivery of a security in bearer form or duly indorsed in blank (section 490:8-301) representing the amount of the obligation or the number of shares or rights transferred or pledged.] is effective (section 490:8-313) and the purchaser acquires the rights of the transferor (section 490:8-301). A pledge or release under this section is the transfer of a limited interest. If a pledge or the creation of a security interest is intended, [the making of entries has the effect of a taking of delivery by the pledgee or a secured party (sections 490:9-304 and 490:9-305).] the security interest is perfected at the time when both value is given by the pledgee and the appropriate entries are made (section 490:8-321). A transferee or pledgee under this section [is a holder.] may be a bona fide purchaser (section 490:8-302).

(4) A transfer or pledge under this section [does] is not [constitute] a registration of transfer under Part 4 [of this Article].

(5) That entries made on the books of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries [nor] or the liabilities or obligations of the clearing corporation to any person adversely affected thereby.

§490:8-321 Enforceability, attachment, perfection, and termination of security interests. (1) A security interest in a security is enforceable and can attach only if it is transferred to the secured party or a person designated by the secured party pursuant to a provision of section 490:8-313(1).

(2) A security interest so transferred pursuant to agreement by a transferor who has rights in the security to a transferee who has given value is a perfected security interest, but a security interest that has been transferred solely under paragraph (i) of section 490:8-313(1) becomes unperfected after twenty-one days unless, within that time, the requirements for transfer under any other provision of section 490:8-313(1) are satisfied.

(3) A security interest in a security is subject to the provisions of Article 9, but:

- (a) No filing is required to perfect the security interest; and
- (b) No written security agreement signed by the debtor is necessary to make the security interest enforceable, except as otherwise provided in paragraph (h), (i), or (j) of section 490:8-313(1).

The secured party has the rights and duties provided under section 490:9-207, to the extent they are applicable, whether or not the security is certificated, and, if certificated, whether or not it is in the secured party's possession.

(4) Unless otherwise agreed, a security interest in a security is terminated by transfer to the debtor or a person designated by the debtor pursuant to a provision of section 490:8-313(1). If a security is thus transferred, the security interest, if not terminated, becomes unperfected unless the security is certificated and is delivered to the debtor for the purpose of ultimate sale or exchange or presentation, collection, renewal, or registration of transfer. In that case, the security interest becomes unperfected after twenty-one days unless, within that time, the security (or securities for which it has been exchanged) is transferred to the secured party or a person designated by the secured party pursuant to a provision of section 490:8-313(1).

PART 4. REGISTRATION

§490:8-401 Duty of issuer to register transfer[,], pledge, or release. (1) [Where] If a certificated security in registered form is presented to the issuer with a request to register transfer[,], or an instruction is presented to the issuer with a request to register a transfer, pledge, or release, the issuer [is under a duty to] shall register the transfer, pledge, or release as requested if all of the following conditions have been met:

- (a) The security is indorsed or the instruction was originated by the appropriate person or persons (section 490:8-308); [and]
- (b) Reasonable assurance is given that those indorsements or instructions are genuine and effective (section 490:8-402); [and]
- (c) The issuer has no duty [to inquire into] as to adverse claims or has discharged [any such] the duty (section 490:8-403); and
- (d) Any applicable law relating to the collection of taxes has been complied with; and].
- (e) The transfer is in fact rightful or is to a bona fide purchaser.]

(2) [Where] If an issuer is under a duty to register a transfer, pledge, or release of a security, the issuer is also liable to the person presenting [it] a certificated security or an instruction for registration or [his] to the person's principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer[,], pledge, or release, but in any case the plaintiff must allege and prove that the transfer, pledge, or release requested was in fact rightful or that the plaintiff was a bona fide purchaser.

(3) Notwithstanding subdivision (1), if the issuer of an uncertificated security not subject to a registered pledge is presented with an instruction from an appropriate person requesting the registration of pledge and the issuer regularly maintains a system for issuing certificated securities to the category of owners which includes the registered owner, the issuer may elect to treat the instruction as a transfer instruction under subdivision (3) of section 490:8-407. If the issuer so elects, the issuer shall, in lieu of registering the pledge, do all of the following:

- (a) Cancel the uncertificated security.
- (b) Issue, in the name of the registered owner, an equivalent certificated security on which shall be noted conspicuously any liens and

restrictions of the issuer and any adverse claims (as to which the issuer has a duty under subdivision (7) of section 490:8-403) to which the uncertificated security was subject.

- (c) Deliver the certificated security to the registered owner.
- (d) Notify the intended registered pledge that the issuer has so elected.

§490:8-402 Assurance that indorsements and instructions are effective.

(1) The issuer may require the following assurance that each necessary indorsement of a certificated security or each instruction (section 490:8-308) is genuine and effective:

- (a) In all cases, a guarantee of the signature [(subsection (1) of section 490:8-312)] (section 490:8-312(1) or (2)) of the person indorsing[; and] a certificated security or originating an instruction including, in the case of an instruction, a warranty of the taxpayer identification number or, in the absence thereof, other reasonable assurance of identity;
- (b) [Where] If the indorsement is made or the instruction is originated by an agent, appropriate assurance of authority to sign;
- (c) [Where] If the indorsement is made or the instruction is originated by a fiduciary, appropriate evidence of appointment or incumbency;
- (d) [Where] If there is more than one fiduciary, reasonable assurance that all who are required to sign have done so; and
- (e) [Where] If the indorsement is made or the instruction is originated by a person not covered by any of the foregoing, assurance appropriate to the case corresponding as nearly as may be to the foregoing.

(2) A "guarantee of the signature" in subsection (1) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible. The issuer may adopt standards with respect to responsibility [provided such standards] if they are not manifestly unreasonable.

(3) "Appropriate evidence of appointment or incumbency" in subsection (1) means:

- (a) In the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within sixty days before the date of presentation for transfer[;], pledge, or release; or
- (b) In any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the issuer to be responsible or, in the absence of [such a] that document or certificate, other evidence reasonably deemed by the issuer to be appropriate. The issuer may adopt standards with respect to [such] the evidence [provided such standards] if they are not manifestly unreasonable. The issuer is not charged with notice of the contents of any document obtained pursuant to this paragraph (b) except to the extent that the contents relate directly to the appointment or incumbency.

(4) The issuer may elect to require reasonable assurance beyond that specified in this section, but if it does so and, for a purpose other than that specified in subsection (3)(b), both requires and obtains a copy of a will, trust, indenture, articles of copartnership, bylaws, or other controlling instrument, it is charged with notice of all matters contained therein affecting the transfer[;], pledge, or release.

§490:8-403 [Limited duty of inquiry.] Issuer's duty as to adverse claims.

(1) An issuer to whom a certificated security is presented for registration [is under a duty to] shall inquire into adverse claims if:

- (a) A written notification of an adverse claim is received at a time and in a manner [which affords] affording the issuer a reasonable opportunity to act on it prior to the issuance of a new, reissued, or reregistered certificated security, and the notification identifies the claimant, the registered owner, and the issue of which the security is a part, and provides an address for communications directed to the claimant; or
- (b) The issuer is charged with notice of an adverse claim from a controlling instrument [which] it has elected to require under [subsection (4) of section 490:8-402.] section 490:8-402(4).

(2) The issuer may discharge any duty of inquiry by any reasonable means, including notifying an adverse claimant by registered or certified mail at the address furnished by [him] the claimant or, if there be no such address, at [his] the claimant's residence or regular place of business that the certificated security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within thirty days from the date of mailing the notification, either:

- (a) An appropriate restraining order, injunction, or other process issues from a court of competent jurisdiction; or
- (b) [An] There is filed with the issuer an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar, or other agent of the issuer involved[,] from any loss [which] it or they may suffer by complying with the adverse claim [is filed with the issuer].

(3) Unless an issuer is charged with notice of an adverse claim from a controlling instrument which it has elected to require under [subsection (4) of section 490:8-402] section 490:9-402(4) or receives notification of an adverse claim under subsection (1) [of this section, where], if a certificated security presented for registration is indorsed by the appropriate person or persons the issuer is under no duty to inquire into adverse claims. In particular:

- (a) An issuer registering a certificated security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship; and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security;
- (b) An issuer registering transfer on an indorsement by a fiduciary is not bound to inquire whether the transfer is made in compliance with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and
- (c) The issuer is not charged with notice of the contents of any court record or file or other recorded or unrecorded document even though the document is in its possession and even though the transfer is made on the indorsement of a fiduciary to the fiduciary [himself] or to [his] the fiduciary's nominee.

(4) An issuer is under no duty as to adverse claims with respect to an uncertificated security except:

- (a) Claims embodied in a restraining order, injunction, or other legal process served upon the issuer if the process was served at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subsection (5);
- (b) Claims of which the issuer has received a written notification from the registered owner or the registered pledgee if the notification was received at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subsection (5);
- (c) Claims (including restrictions on transfer not imposed by the issuer) to which the registration of transfer to the present registered owner was subject and were so noted in the initial transaction statement sent to the registered owner; and
- (d) Claims as to which an issuer is charged with notice from a controlling instrument it has elected to require under section 490:8-402(4).

(5) If the issuer of an uncertificated security is under a duty as to an adverse claim, the issuer discharges that duty by:

- (a) Including a notation of the claim in any statements sent with respect to the security under section 490:8-408(3), (6), and (7); and
- (b) Refusing to register the transfer or pledge of the security unless the nature of the claim does not preclude transfer or pledge subject thereto.

(6) If the transfer or pledge of the security is registered subject to an adverse claim, a notation of the claim must be included in the initial transaction statement and all subsequent statements sent to the transferee and pledgee under section 490:8-408.

(7) Notwithstanding subsections (4) and (5), if an uncertificated security was subject to a registered pledge at the time the issuer first came under a duty as to a particular adverse claim, the issuer has no duty as to that claim if transfer of the security is requested by the registered pledgee or an appropriate person acting for the registered pledgee unless:

- (a) The claim was embodied in legal process which expressly provides otherwise;
- (b) The claim was asserted in a written notification from the registered pledgee;
- (c) The claim was one as to which the issuer was charged with notice from a controlling instrument it required under section 490:8-402(4) in connection with the pledgee's request for transfer; or
- (d) The transfer requested is to the registered owner.

§490:8-404 Liability and nonliability for registration. (1) Except as [otherwise] provided in any law relating to the collection of taxes, the issuer is not liable to the owner, pledgee, or any other person suffering loss as a result of the registration of a transfer, pledge, or release of a security if:

- (a) There were on or with [the] a certificated security the necessary indorsements or the issuer had received an instruction originated by an appropriate person (section 490:8-308); and
- (b) The issuer had no duty [to inquire into] as to adverse claims or has discharged [any such] the duty (section 490:8-403).

(2) [Where] If an issuer has registered a transfer of a certificated security to a person not entitled to it, the issuer on demand [must] shall deliver a like security to the true owner unless:

- (a) The registration was pursuant to subsection (1); [or]

(b) The owner is precluded from asserting any claim for registering the transfer under [subsection (1) of the following section;] section 490:8-405(1); or

(c) [Such] The delivery would result in overissue, in which case the issuer's liability is governed by section 490:8-104.

(3) If an issuer has improperly registered a transfer, pledge, or release of an uncertificated security, the issuer on demand from the injured party shall restore the records as to the injured party to the condition that would have obtained if the improper registration had not been made unless:

(a) The registration was pursuant to subsection (1); or

(b) The registration would result in overissue, in which case the issuer's liability is governed by section 490:8-104.

§490:8-405 Lost, destroyed, and stolen certificated securities. (1) [Where] If a certificated security has been lost, apparently destroyed, or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after [he] the owner has notice of it and the issuer registers a transfer of the security before receiving [such a] notification, the owner is precluded from asserting against the issuer any claim for registering the transfer under [the preceding section] section 490:8-404 or any claim to a new security under this section.

(2) [Where] If the owner of a certificated security claims that the security has been lost, destroyed, or wrongfully taken, the issuer [must] shall issue a new certificated security or, at the option of the issuer, an equivalent uncertificated security in place of the original security if the owner:

(a) So requests before the issuer has notice that the security has been acquired by a bona fide purchaser; [and]

(b) Files with the issuer a sufficient indemnity bond; and

(c) Satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of [the] a new certificated or uncertificated security, a bona fide purchaser of the original certificated security presents it for registration of transfer, the issuer [must] shall register the transfer unless registration would result in overissue, in which event the issuer's liability is governed by section 490:8-104. In addition to any rights on the indemnity bond, the issuer may recover the new certificated security from the person to whom it was issued or any person taking under [him] such person except a bona fide purchaser[.] or may cancel the uncertificated security unless a bona fide purchaser or any person taking under a bona fide purchaser is then the registered owner or registered pledgee thereof.

§490:8-406 Duty of authenticating trustee, transfer agent, or registrar.

(1) [Where] If a person acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of its certificated securities or in the registration of transfers, pledges, and releases of its uncertificated securities, in the issue of new securities, or in the cancellation of surrendered securities:

(a) [He] The person is under a duty to the issuer to exercise good faith and due diligence in performing [his] the person's functions; and

(b) [He has with] With regard to the particular functions the person [he] performs, the person has the same obligation to the holder or owner of [the] a certificated security or to the owner or pledgee of an uncertificated security and has the same rights and privileges as the issuer has in regard to those functions.

(2) Notice to an authenticating trustee, transfer agent, registrar or other [such] agent is notice to the issuer with respect to the functions performed by agent.

§490:8-407 Exchangeability of securities. (1) No issuer is subject to the requirements of this section unless it regularly maintains a system for issuing the class of securities involved under which both certificated and uncertificated securities are regularly issued to the category of owners, which includes the person in whose name the new security is to be registered.

(2) Upon surrender of a certificated security with all necessary indorsements and presentation of a written request by the person surrendering the security, the issuer, if the issuer has no duty as to adverse claims or has discharged the duty (section 490:8-403), shall issue to the person or another person designated by the person an equivalent uncertificated security subject to all liens, restrictions, and claims that were noted on the certificated security.

(3) Upon receipt of a transfer instruction originated by an appropriate person who so requests, the issuer of an uncertificated security shall cancel the uncertificated security and issue an equivalent certificated security on which must be noted conspicuously any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under section 490:8-403(4)) to which the uncertificated security was subject. The certificated security shall be registered in the name of and delivered to:

- (a) The registered owner, if the uncertificated security was not subject to a registered pledge; or
- (b) The registered pledgee, if the uncertificated security was subject to a registered pledge.

§490:8-408 Statements of uncertificated securities. (1) Within two business days after the transfer of an uncertificated security has been registered, the issuer shall send to the new registered owner and, if the security has been transferred subject to a registered pledge, to the registered pledgee a written statement containing:

- (a) A description of the issue of which the uncertificated security is a part;
- (b) The number of shares or units transferred;
- (c) The name and address and any taxpayer identification number of the new registered owner and, if the security has been transferred subject to a registered pledge, the name and address and any taxpayer identification number of the registered pledgee;
- (d) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under section 490:8-403(4)) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and
- (e) The date the transfer was registered.

(2) Within two business days after the pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the registered pledgee a written statement containing:

- (a) A description of the issue of which the uncertificated security is a part;
- (b) The number of shares or units pledged;
- (c) The name and address and any taxpayer identification number of the registered owner and the registered pledgee;

- (d) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under section 490:8-403(4)) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and
- (e) The date the pledge was registered.
- (3) Within two business days after the release from pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the pledgee whose interest was released a written statement containing:
 - (a) A description of the issue of which the uncertificated security is a part;
 - (b) The number of shares or units released from pledge;
 - (c) The name and address and any taxpayer identification number of the registered owner and the pledgee whose interest was released;
 - (d) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under section 490:8-403(4)) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and
 - (e) The date the release was registered.
- (4) An "initial transaction statement" is the statement sent to:
 - (a) The new registered owner and, if applicable, to the registered pledgee pursuant to subsection (1);
 - (b) The registered pledgee pursuant to subsection (2); or
 - (c) The registered owner pursuant to subsection (3).

Each initial transaction statement shall be signed by or on behalf of the issuer and must be identified as "Initial Transaction Statement".

(5) Within two business days after the transfer of an uncertificated security has been registered, the issuer shall send to the former registered owner and the former registered pledgee, if any, a written statement containing:

- (a) A description of the issue of which the uncertificated security is a part;
- (b) The number of shares or units transferred;
- (c) The name and address and any taxpayer identification number of the former registered owner and of any former registered pledgee; and
- (d) The date the transfer was registered.
- (6) At periodic intervals no less frequent than annually and at any time upon the reasonable written request of the registered owner, the issuer shall send to the registered owner of each uncertificated security a dated written statement containing:
 - (a) A description of the issue of which the uncertificated security is a part;
 - (b) The name and address and any taxpayer identification number of the registered owner;
 - (c) The number of shares or units of the uncertificated security registered in the name of the registered owner on the date of the statement;
 - (d) The name and address and any taxpayer identification number of any registered pledgee and the number of shares or units subject to the pledge; and

- (e) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under section 490:8-403(4)) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

(7) At periodic intervals no less frequent than annually and at any time upon the reasonable written request of the registered pledgee, the issuer shall send to the registered pledgee of each uncertificated security a dated written statement containing:

- (a) A description of the issue of which the uncertificated security is a part;
- (b) The name and address and any taxpayer identification number of the registered owner;
- (c) The name and address and any taxpayer identification number of the registered pledgee;
- (d) The number of shares or units subject to the pledge; and
- (e) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under section 490:8-403(4)) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

(8) If the issuer sends the statements described in subsections (6) and (7) at periodic intervals no less frequent than quarterly, the issuer is not obliged to send additional statements upon request unless the owner or pledgee requesting them pays to the issuer the reasonable cost of furnishing them.

(9) Each statement sent pursuant to this section must bear a conspicuous legend reading substantially as follows: "This statement is merely a record of the rights of the addressee as of the time of its issuance. Delivery of this statement, of itself, confers no rights on the recipient. This statement is neither a negotiable instrument nor a security.""

SECTION 4. Article 9 of Chapter 490, Hawaii Revised Statutes, is amended as follows:

1. Section 490:9-103 is amended to read as follows:

"§490:9-103 Perfection of security interests in multiple state transactions. (1) Documents, instruments and ordinary goods.

- (a) This subsection applies to documents and instruments and to goods other than those covered by a certificate of title described in subsection (2), mobile goods described in subsection (3), and minerals described in subsection (5).
- (b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.
- (c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or nonperfection of the security interest from the time it attaches until thirty days after the debtor receives possession of the goods and thereafter if the goods

are taken to the other jurisdiction before the end of the thirty-day period.

- (d) When collateral is brought into and kept in this State while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by part 3 of this Article to perfect the security interest,
 - (i) If the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four months after the collateral is brought into this State, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;
 - (ii) If the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected thereafter;
 - (iii) For the purpose of priority over a buyer of consumer goods (subsection (2) of section 490:9-307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).
- (2) Certificate of title.
 - (a) This subsection applies to goods covered by a certificate of title issued under a statute of this State or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.
 - (b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four months after the goods are removed from that jurisdiction and thereafter until the goods are¹ registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.
 - (c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this State and thereafter covered by a certificate of title issued by this State is subject to the rules stated in paragraph (d) of subsection (1).
 - (d) If goods are brought into this State while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this State and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.
- (3) Accounts, general intangibles and mobile goods.

- (a) This subsection applies to accounts (other than an account described in subsection (5) on minerals) and general intangibles (other than uncertificated securities) and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subsection (2).
- (b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or nonperfection of the security interest.
- (c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected instead by notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.
- (d) A debtor shall be deemed located at [his] the debtor's place of business if [he] the debtor has one, at [his] the debtor's chief executive office if [he] the debtor has more than one place of business, otherwise at [his] the debtor's residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.
- (e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) Chattel paper. The rules stated for goods in subsection (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subsection (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Minerals. Perfection and the effect of perfection or nonperfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

(6) Uncertificated securities. The law (including the conflict of laws rules) of the jurisdiction of organization of the issuer governs the perfection and

the effect of perfection or non-perfection of a security interest in uncertificated securities."

2. Section 490:9-105 is amended by amending subsection (j) to read as follows:

- "(j) "Instrument" means a negotiable instrument (defined in section 490:3-104), or a certificated security (defined in section 490:8-102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;"

3. Section 490:9-203 is amended by amending subsection (1) to read as follows:

"(1) Subject to the provisions of section 490:4-208 on the security interest of a collecting bank, section 490:8-321 on security interests in securities and section 490:9-113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

- (a) The collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned; [and]
- (b) Value has been given; and
- (c) The debtor has rights in the collateral."

4. Section 490:9-302 is amended by amending subsection (1) to read as follows:

"(1) A financing statement must be filed to perfect all security interests except the following:

- (a) A security interest in collateral in possession of the secured party under section 490:9-305;
- (b) A security interest temporarily perfected in instruments or documents without delivery under section 490:9-304 or in proceeds for a ten-day period under section 490:9-306;
- (c) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;
- (d) A purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in section 490:9-313;
- (e) An assignment of accounts which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts of the assignor;
- (f) A security interest of a collecting bank (section 490:4-208) or in securities (section 490:8-321) or arising under the Article on Sales (see section 490:9-113) or covered in subsection (3) of this section.
- (g) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.
- (h) A security interest in a deposit account. Such a security interest is perfected:
 - (i) As to a deposit account maintained with the secured party, when the security agreement is executed.
 - (ii) As to a deposit account maintained with any organization other than the secured party, when notice thereof is given in

writing to the organization with whom the deposit account is maintained.”

5. Section 490:9-304 is amended to read as follows:

“§490:9-304 Perfection of security interest in instruments, documents, and goods covered by documents; perfection by permissive filing; temporary perfection without filing or transfer of possession. (1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than certificated securities or instruments which constitute part of chattel paper) can be perfected only by the secured party’s taking possession, except as provided in subsections (4) and (5) of this section and subsections (2) and (3) of section 490:9-306 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by¹ goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee’s receipt of notification of the secured party’s interest or by filing as to the goods.

(4) A security interest in instruments (other than certificated securities) or negotiable documents is perfected without filing or the taking of possession for a period of twenty-one days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of twenty-one days without filing where a secured party having a perfected security interest in an instrument (other than a certificated security), a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

(a) Makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to subsection (3) of section 490:9-312; or

(b) Delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal,¹ registration of transfer.

(6) After the twenty-one day period in subsections (4) and (5) perfection depends upon compliance with applicable provisions of this Article.”

6. Section 490:9-305 is amended to read as follows:

“§490:9-305 When possession by secured party perfects security interest without filing. A security interest in letters of credit and advices of credit (subsection (2)(a) of section 490:5-116), goods, instruments (other than certificated securities), money, negotiable documents, or chattel paper may be perfected by the secured party’s taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party’s interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party.”

7. Section 490:9-309 is amended to read as follows:

"§409:9-309¹ Protection of purchasers of instruments [and], documents and securities. Nothing in this Article limits the rights of a holder in due course of a negotiable instrument (section 490:3-302) or a holder to whom¹ negotiable document of title has been duly negotiated (section 490:7-501) or a bona fide purchaser of a security [(section 490:8-301)] (section 490:8-302) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this Article does not constitute notice of the security interest to such holders or purchasers."

8. Section 490:9-312 is amended by amending subsection (7) to read as follows:

"(7) If future advances are made while a security interest is perfected by filing [or], the taking of possession, or under section 490:8-321 on securities, the security interest has the same priority for the purposes of subsection (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act, upon its approval, shall take effect on July 1, 1986.

(Approved June 13, 1986.)

Note

1. So in original.

ACT 342

H.B. NO. 26

A Bill for an Act Relating to Liquor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The number of traffic accidents involving youthful drinking drivers in Hawaii since the drinking age was lowered to eighteen in 1972 has shown a sustained and significant increase. The legislature finds that when other states have raised the minimum drinking age there is a decrease in fatal crashes among drivers affected by the statutory changes. The legislature further finds that raising the drinking age will mitigate other social problems such as juvenile crime and poor school performance. For example, if alcohol is not legally available to young adults under twenty-one the accessibility of alcohol to intermediate and high school students will be decreased. The legislature also finds that, because of these and similar factors, the federal government has enacted legislation encouraging a national minimum drinking age.

The purpose of this Act is to establish a minimum drinking age of twenty-one, thereby reducing the number of traffic accidents involving young adults as well as preventing other social problems. The legislature further finds that under Public Law 98-363, the State of Hawaii will lose five per cent or \$6,285,000 of its federal highway funds for fiscal year 1987 if Hawaii does not have a drinking age requirement of twenty-one by October 1, 1986, and will lose

ten per cent or \$12,570,000 of these funds for fiscal year 1988 if it does not have this requirement by October 1, 1987. The legislature is aware that the State of Hawaii is challenging the constitutionality and rationale of Public Law 98-363 through an amicus brief filed on September 17, 1985. While the legislature supports and will continue to support this effort, the legislature further finds that the State's federal highway funding will be jeopardized if no legislation is enacted in the 1986 legislative session to raise the drinking age to twenty-one.

The legislature further finds that with the decrease in traffic fatalities and injuries expected from a higher drinking age, reductions in insurance benefits paid also can be expected, resulting in savings to the insurance industry. The legislature bases this finding on actuarial estimates and statements by the insurance industry and other groups affirming the efficacy of a higher drinking age in curbing alcohol-induced traffic accidents. Although no empirical evidence on the reduced payouts is available, the legislature believes a savings to the insurance industry can reasonably be expected. Therefore, the legislature finds it appropriate to pass this savings on to the consumer in the form of certain premium reductions on insurance policies.

SECTION 2. Section 281-1, Hawaii Revised Statutes, is amended by amending the definitions of "minor" and "public place" to read as follows:

"Minor" means any person below the age of [eighteen years.] twenty-one years.

"Public place" means any [place, building, or passenger conveyance to which the public resort or are generally permitted to have access.] publicly owned property or privately owned property open for public use or to which the public is invited for entertainment or business purposes."

SECTION 3. Section 281-78, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) At no time under any circumstances shall any liquor:

- (1) Be consumed on any public highway or any public sidewalk;
- (2) Be sold or furnished by any licensee to:
 - (A) Any minor,
 - (B) Any person at the time under the influence of liquor,
 - (C) Any person known to the licensee to be addicted to the excessive use of intoxicating liquor, or
 - (D) Any person for consumption in any vehicle on the licensed premises;

Provided[,] that the sale of liquor to a minor shall not be deemed to be a violation of this subsection if, in making the sale the licensee was misled by the appearance of the minor and the attending circumstances into honestly believing that such minor was of legal age and the licensee acted in good faith, and it shall be incumbent upon the licensee to prove that he so acted in good faith;

- (3) Be consumed on the premises of a licensee or on any premises connected therewith, whether there purchased or not, except as permitted by the terms of the license;
- (4) Be sold or served by any person eighteen to twenty years of age except in licensed establishments where selling or serving the intoxicating liquor is part of the minor's employment, and where there is proper supervision of such minor employees to ensure that the minors shall not consume the intoxicating liquor;

- [(4)] (5) Be sold or served by any [minor] person below the age of eighteen upon any licensed premises, except in such individually specified licensed establishments found to be otherwise suitable by the liquor commission in which an approved program of job training and employment for dining room waiters and waitresses is being conducted in cooperation with the University of Hawaii, [or] the state community college system, or a federally sponsored manpower development and training program, under arrangements which ensure proper control and supervision of employees."

SECTION 4. Section 712-1250.5, Hawaii Revised Statutes, is amended to read as follows:

"[[§712-1250.5[]] **Promoting intoxicating liquor to a minor.** (1) A person, including any licensee as defined in section 281-1, commits the offense of promoting intoxicating liquor to a minor if he knowingly:

- (a) Sells or offers for sale, delivers, or gives to a person intoxicating liquor, and the person receiving the intoxicating liquor is a minor; or
- (b) Permits a person to possess intoxicating liquor while on property under his control, and the person possessing the intoxicating liquor is a minor.

(2) It is a defense to a prosecution for promoting intoxicating liquor to a minor that:

- (a) The intoxicating liquor provided to the minor was an ingredient in a medicine prescribed by a licensed physician for medical treatment of the minor; or
- (b) The intoxicating liquor was provided to the minor as part of a ceremony of a recognized religion; or
- (c) The defendant provided the intoxicating liquor to the minor with the belief, which was reasonable under the circumstances, that the minor had attained the age of [majority; or] twenty-one; or
- (d) The defendant provided the intoxicating liquor to the minor with the express consent of the parent or legal guardian and with the belief, which was reasonable under the circumstances, that the minor would not consume any portion of the substance; or
- (e) The defendant provided the intoxicating liquor to the minor with the express consent of the parent or legal guardian and with the belief, which was reasonable under the circumstances, that the minor would consume the substance only in the presence of the parent or legal guardian[.]; or
- (f) The intoxicating liquor was possessed by the minor to be sold or served as allowed by law.

(3) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character, nature, and quantity of the intoxicating liquor possessed, distributed, or sold.

The fact that the defendant distributed or sold intoxicating liquor to a minor is prima facie evidence that the defendant knew the transferee was a minor, except as provided in subsection (2)(c).

(4) For the purposes of this section, "minor" means any person below the age of twenty-one years.

[(3)] (5) Promoting intoxicating liquor to a minor is a misdemeanor."

SECTION 5. Section 712-1252, Hawaii Revised Statutes, is amended to read as follows:

“§712-1252 Knowledge of character, nature, or quantity of substance, or age of transferee; prima facie evidence. (1) The fact that a person engaged in the conduct specified by any section in this part is prima facie evidence that he engaged in that conduct with knowledge of the character, nature, and quantity of the dangerous drug, harmful drug, detrimental drug, or intoxicating compounds[, or intoxicating liquor] possessed, distributed, or sold.

(2) The fact that the defendant distributed or sold a dangerous drug, harmful drug, detrimental drug, or intoxicating compound[, or intoxicating liquor,] to a minor is prima facie evidence that the defendant knew the transferee to be a minor.”

SECTION 6. Section 294-13, Hawaii Revised Statutes, is amended to read as follows:

“§294-13 Motor vehicle insurance rates. (a) Except as otherwise provided in this chapter, all premium rates for motor vehicle insurance shall comply with the provisions of the casualty rating law contained in chapter 431.

(b) All premium rates for motor vehicle insurance shall be made in accordance with the following provisions:

- (1) Due consideration shall be given to past and prospective loss experience, to catastrophe hazards, if any, to a reasonable margin for profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective loss experience; reasonable margin for profit from and contingencies in the administration of motor vehicle insurance sold; past and prospective expenses in the sale and administration of motor vehicle insurance; and, optionally, to past or prospective loss, sales, and administrative costs experience in the nation or regionally, whenever such consideration will serve to reduce rates;
- (2) Due consideration shall be given to the investment income from reserves, unearned insurance premiums, and other unearned proceeds received on account of motor vehicle insurance sold, and all other factors that may be deemed relevant, such as but not limited to types of vehicles, occupations, and involvement in past accidents, provided they are established to have a probable effect upon losses or expense, or rates;
- (3) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any class of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;
- (4) Risks may be grouped by classifications for the establishing of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses;
- (5) Rates shall not be excessive, inadequate, or unfairly discriminatory;

- (6) Rate making and regulation of rates for all insurance subject to this chapter shall be governed by chapter 431; subject to the following:
 - (A) To assure the proper implementation and evaluation of the chapter the commissioner shall fully comply with section 431-703;
 - (B) Except as provided in subsection (j) the commissioner shall establish rates and shall consider with other relevant factors loss experience and the investment income of the insurers, and insofar as sections 431-694 and 431-695 are in conflict with this provision, sections 431-694 and 431-695 shall not apply;
 - (C) To afford all interested persons an opportunity to be heard the commissioner, after notice is published pursuant to chapter 91, shall hold a public hearing whenever rates are to be increased;
 - (D) The initial rates shall be reviewed prior to September 1, 1975, and thereafter shall be reviewed at least every two years. The commissioner shall issue a public statement or an order approving the rates for the benefit of the public;
 - (E) The commissioner shall order insurers to rebate to policyholders any excessive profit realized by insurers from their operations.

(c) Except to the extent necessary to meet the provisions of subsection (b)(4) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

(d) No manual of classification, rule, rate, rating plan, designation of rating territories, or standard for motor vehicle insurance shall be effective unless approved by the commissioner. The commissioner may accept from an advisory organization basic standards, manuals of classification, territories, endorsements, forms, and other materials, not dealing with rates, for reference filings by insurers. The commissioner shall have the power to set rates under this chapter, pursuant to and following the procedure under chapter 91, except as specifically provided herein. The commissioner shall not set any rates without a public hearing at which all affected and interested parties have a full opportunity to examine, to comment, and to present evidence on the impact and application of the proposed establishment, or revision of rates. The commissioner shall publish a notice of the date, time, and place of the public hearing at least once in each of three successive weeks in a newspaper of general circulation.

(e) Any person aggrieved by the application as to him of any classification, rule, standard, rate, or rating plan made, followed, or adopted by an insurer may make written request to the commissioner to review such application and grant the relief requested. If the commissioner finds that probable cause for the complaint exists or that the complaint charges a violation of this chapter or any applicable provisions of the casualty rating law, he shall conduct a hearing on the complaint. The hearing shall be subject to the procedure provided in section 431-705(a).

(f) If the commissioner has good cause to believe that a classification, rule, standard, rate, rating territory, or rating plan made, followed, or adopted by an insurer does not comply with any of the requirements of this chapter or any applicable provisions of the casualty rating law, he shall, unless he has good cause to believe that such noncompliance is wilful, give notice, in writing, to each insurer stating therein in what manner and to what extent such noncompliance is alleged to exist and specifying therein a reasonable time, not less than ten days thereafter, within which such noncompliance may be corrected. Notices under this subsection

shall be confidential as between the commissioner and the parties unless a hearing is held as provided in subsection (g).

(g) If the commissioner has good cause to believe such noncompliance to be wilful, or if, within the period prescribed by the commissioner in the notice, the insurer does not make such changes as may be necessary to correct the noncompliance specified by the commissioner or establish to the satisfaction of the commissioner that such specified noncompliance does not exist, then the commissioner may proceed with a hearing which shall be subject to the hearing procedure provided in section 431-705(a).

(h) If, after a hearing conducted pursuant to subsection (b) or (e), the commissioner finds that the complainant is entitled to relief or that any classification, rule, standard, rate, rating territory, or rating plan violates this chapter or any applicable provisions of the casualty rating law, he shall issue an order granting the complainant's claim for relief or prohibiting the insurer from using such classification, rule, standard, rate, rating territory, or rating plan. The order shall contain the commissioner's findings of fact and conclusions of law, including, as appropriate, a specification of the respects in which a violation of this chapter or any applicable provision of the casualty rating law exists and shall specify a reasonable time period within which the insurer shall comply with the terms of the order. Any such order shall be subject to judicial review in accordance with the provisions of section 431-705(b).

(i) The commissioner shall periodically review and evaluate the motor vehicle insurance program described in this chapter, including an annual review of the premium rates, benefit payments, and insurers' loss experience.

(j) The commissioner shall be prohibited from setting, maintaining, or in any way fixing the rates charged by motor vehicle insurers for motor vehicle insurance issued in conformity with this chapter as either no-fault insurance or as optional additional insurance except as provided under section 294-23. Each firm licensed to underwrite no-fault insurance in the State shall establish its own rate schedule. The commissioner shall, however, monitor and survey the several companies' rate making methods and systems. The commissioner shall require of each insurer and of each self-insurer any and all information, data, internal memoranda, studies, and audits, he deems desirable for the purpose of evaluation, comparison, and study of the methods and schedules.

Notwithstanding this prohibition, the commissioner shall, in his discretion, intervene at any time to adjust rates, for the no-fault, mandatory, or optional-additional coverages, being assessed by any or all insurers, upon a finding that all or any rates are excessively high or unconscionably below the actual costs of provision of the coverage being assured.

In the establishment of their individual rate schedules, each insurer shall conform fully to subsection (b)(1), (2), and (4).

(k) Notwithstanding any other law to the contrary, no insurer shall agree, combine, or conspire with any other private insurer or enter into, become a member of, or participate in any understanding, pool, or trust, to fix, control, or maintain, directly or indirectly, motor vehicle insurance rates. Any violation of this section shall subject the insurer and each of its officers and employees involved to the penalties of chapter 480 without benefit of any exemption otherwise permitted by section 480-11. This subsection shall not apply to advisory organizations referred to in section 431-700 which are not involved in rate making under this chapter.

(l) Notwithstanding subsection (j), commencing with September 1, 1974, the commissioner shall enforce a mandatory reduction of not less than fifteen per cent by each insurer, calculated as a percentage of the insurer's premium for

a comparable combination of insurance coverage in effect on January 1, 1973, on all motor vehicle coverages, as provided in this chapter, including the basic no-fault policy. There shall be no exception to the requirements of this provision, unless the commissioner shall find that the use of the rates required herein by an insurer will be inadequate to the extent that such rates jeopardize the solvency of the insurer required to use such rates. No rate for the insurance required by this chapter shall be increased prior to September 1, 1975, unless the insurer proposing such rate increase shall show that the rates herein are inadequate as stated above.

[[(m)]] Notwithstanding subsection (j), commencing on December 16, 1985, and ending on December 31, 1988, all insurers of any motor vehicle shall provide a ten per cent reduction off premium charges each insurer assesses for each new and renewal policy for no-fault benefits and medical payment coverage for any motor vehicle which is equipped with seat belt assemblies as required under any federal motor vehicle safety standard issued pursuant to Public Law 89-563, the federal National Traffic and Motor Vehicle Safety Act of 1966, as amended, or which is so equipped even if not required to be under any federal motor vehicle standard.

(n) Notwithstanding subsection (j), and in addition to all other premium reductions required under this section, commencing on October 1, 1986, and ending on September 30, 1989, all insurers of any motor vehicle shall provide a 1.5 per cent reduction for bodily injury liability, property damage liability, no-fault benefits, uninsured motorist, and underinsured motorist coverages, and a 0.75 per cent reduction for collision coverage off premium charges each insurer assesses for each new and renewal policy, based on the anticipated effects of section 281-78. Commencing on October 1, 1989, and ending on September 30, 1990, at the discretion of and as determined by the commissioner, based on the difference between the actual and anticipated effects of section 281-78, all insurers of any motor vehicle shall provide a refund or credit to each insured at the time of renewal of a no-fault policy."

SECTION 7. The director of the state department of transportation shall submit a study, consisting of two reports, evaluating the effectiveness of this Act to the legislature. The first report shall be submitted no later than twenty-five days before the commencement of the regular legislative session of 1988, and the second report shall be submitted no later than twenty-five days before the commencement of the regular legislative session of 1991. This study shall evaluate the effectiveness of this Act and shall include, but not be limited to, information and recommendations relating to the extent to which this Act has reduced accidents, injuries, and fatalities caused by driving under the influence of intoxicating liquor, and the extent to which compliance has been achieved with this Act.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect on October 1, 1986, and shall be repealed as of September 30, 1991.

(Approved June 13, 1986.)

ACT 343

H.B. NO. 2007-86

A Bill for an Act Relating to Developmental Disabilities and Mental Retardation Records.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 333, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§333- Confidentiality of records. All certificates, applications, records, and reports made for the purposes of this chapter and directly or indirectly identifying a person subject hereto shall be kept confidential and shall not be disclosed to any other person except so far (1) as the person identified, or the person's legal guardian, consents, or (2) as disclosure may be deemed necessary by the director of health to carry out this chapter, or (3) as disclosure may be deemed necessary under the federal Developmental Disabilities Act of 1984, P.L. 98-527, to protect and advocate the rights of persons with developmental disabilities who reside in facilities for persons with developmental disabilities, or (4) as disclosure may be deemed necessary by the family court for any case pending before a court."

SECTION 2. Chapter 333E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§333E- Confidentiality of records. All certificates, applications, records, and reports made for the purposes of this chapter and directly or indirectly identifying a person subject hereto shall be kept confidential and shall not be disclosed to any other person except so far (1) as the person identified, or the person's legal guardian, consents, or (2) as disclosure may be deemed necessary by the director of health to carry out this chapter, or (3) as disclosure may be deemed necessary under the federal Developmental Disabilities Act of 1984, P.L. 98-527, to protect and advocate the rights of persons with developmental disabilities who reside in facilities for persons with developmental disabilities, or (4) as disclosure may be deemed necessary by the family court for any case pending before a court."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 344

S.B. NO. 2308-86

A Bill for an Act Relating to Liquor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 244D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§244D- Adjustment of tax rate. (a) After July 1, 1987, the tax rate for a given liquor category taxed in section 244D-4(a) shall be adjusted automatical-

ly on January 1 or July 1, as the case may be, in the following circumstances. If at the end of a six-month reporting period ending on March 31 and September 30 the department finds that:

- (1) The:
 - (A) Total gallonage for a given liquor category has not declined over the same six-month reporting period; and
 - (B) Unit price for such liquor category over such six-month reporting period has increased over the corresponding unit price over the preceding six-month reporting period; or
- (2) The:
 - (A) Total gallonage for a given liquor category has not declined over the same six-month reporting period; and
 - (B) Unit price for such liquor category over such six-month reporting period has decreased over the corresponding unit price over the preceding six-month reporting period;

then the tax rate, rounded to the nearest whole cent, for the liquor category or liquor categories shall increase or decrease, as appropriate, in the same percentage as the increase or decrease in unit price. Under no circumstances shall the tax rate for a liquor category be decreased below the tax rates established by section 244D-4(a).

The department shall make its determination no later than ninety days following the close of such six-month reporting period, shall circulate the tax rate change to each permittee, and shall publish the tax rate change in a newspaper of general circulation in the State.

The tax rate increase or decrease, as appropriate, shall be effective on the January 1 or July 1 next following such determination.

(b) After January 1, 1989, the tax rate for a given liquor category in each paragraph in section 244D-4(a) shall be adjusted automatically on January 1 or July 1, as the case may be, in the following circumstances. If at the end of a fiscal or calendar year reporting period the department finds that:

- (1) The:
 - (A) Total gallonage for a given liquor category has not declined over the same twelve-month reporting period; and
 - (B) Unit price for such liquor category over such twelve-month reporting period has increased over the corresponding unit price over the preceding twelve-month reporting period; or
- (2) The:
 - (A) Total gallonage for a given liquor category has not declined over the same twelve-month reporting period; and
 - (B) Unit price for such liquor category over such twelve-month reporting period has decreased over the corresponding unit price over the preceding twelve-month reporting period;

then the tax rate, rounded to the nearest whole cent, for the liquor category or liquor categories shall increase or decrease, as appropriate, in the same percentage as the increase or decrease in unit price. Under no circumstances shall the tax rate for a liquor category be decreased below the tax rates established by section 244D-4(a).

The department shall make its determination no later than ninety days following the close of such twelve-month reporting period, shall circulate the tax rate change to each permittee, and shall publish the tax rate change in a newspaper of general circulation in the State.

The tax rate increase or decrease, as appropriate, shall be effective on the January 1 or July 1 next following such determination."

SECTION 2. Section 244D-1, Hawaii Revised Statutes, is amended to read as follows:

“[]§244D-1[]] **Definitions.** Wherever used in this chapter, unless the context otherwise requires:

“Liquor commission” means the liquor commission of each county.

“Liquor law” means chapter 281.

“Liquor” and “licensed premises” shall have the same meanings as such words have as used in the liquor law.

“Dealer” means the holder of a manufacturer’s license, or a wholesaler’s license, under the liquor law.

“Permittee” means the holder of a permit provided for in section 244D-2.

“Person” means an individual, partnership, society, unincorporated association, joint adventure, group, hui, joint stock company, corporation, trustee, or other fiduciary, or other entity.

“Wholesale price” means the total amount for which liquor is sold by a dealer, valued in money, whether or not paid, and without any deduction for cash discounts, but the amount of tax imposed by this chapter, whether or not separately charged and collected, shall be deducted in determining the wholesale price. In the case of a sale not made at wholesale, or not made by a dealer, or if the tax is upon the use, the wholesale price shall be deemed to be the average price of sales to retail dealers of like liquor, made by the taxpayer during the month preceding the accrual of the tax, or if no such sales were made during the month by the taxpayer, the average price of sales to retail dealers of like liquor made by permittees in the same county during the month preceding the accrual of the tax.

“Sale” means any transfer of title or possession, or both, exchange or barter, in any manner or by any means whatsoever, for a consideration.

“Use” means any use, whether such use is of such nature as to cause the property to be appreciably consumed or not, or the keeping of such property for such use or for sale, and shall include the exercise of any right or power over tangible personal property incident to the ownership of that property.]

“Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

“Beer” means any alcoholic beverage obtained by the fermentation or any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof in water, and includes ale, porter, brown, stout, lager beer, small beer, and strong beer but does not include sake, known as Japanese rice wine, or cooler beverage.

“Cooler beverage” means either (1) a wine cooler containing wine and more than fifteen per cent added natural or artificial blending material, such as fruit juices, flavors, flavorings, or adjuncts, water (plain, carbonated, or sparkling), colorings, or preservatives, and which contains less than seven per cent of alcohol by volume; or (2) a malt beverage cooler containing beer and added natural or artificial blending material such as fruit juices, flavors, flavorings, colorings, or preservatives, and which contains less than seven per cent of alcohol by volume.

“Dealer” means the holder of a manufacturer’s license, or a wholesaler’s license, under the liquor law.

“Distilled spirits” means an alcoholic beverage obtained by the distillation of fermented agricultural products, and includes alcohol for beverage use, spirits of wine, whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof, but does not include beer, draft beer, cooler beverage, or wine.

"Draft beer" means beer in an individual container of seven gallons or more.

"Gallon" or "wine gallon" means that liquid measure containing one hundred twenty-eight fluid ounces (3.7854 liters).

"Licensed premises" shall have the same meaning as the term is used in chapter 281.

"Liquor" has the same meaning as set forth in section 281-1 and includes alcohol, and the liquor categories: beer, draft beer, cooler beverage, distilled spirits, and wine.

"Liquor commission" or "commission" means the liquor commission of each county.

"Liquor law" means chapter 281.

"Permittee" means the holder of a permit provided for in section 244D-2.

"Person" means an individual, partnership, society, unincorporated association, joint adventure, group, hui, joint stock company, corporation, trustee, or other fiduciary, or other entity.

"Sale" means any transfer of title or possession, or both, exchange or barter, in any manner or by any means whatsoever, for a consideration.

"Sparkling wine" means champagne and any other effervescent wine charged with more than 0.392 grams of carbon dioxide per 100 milliliters of wine, whether artificially or as a result of secondary fermentation of wine within the container.

"Still wine" means any nonsparkling wine and shall include those wines containing not more than 0.392 grams of carbon dioxide per 100 milliliters of wine.

"Unit price" for a liquor category taxed under this chapter shall be equal to the total dollar volume of taxable sales, exclusive of all federal and state excise taxes, reported for such liquor category, divided by the total gallons of taxable sales reported for such liquor category over the same period.

"Use" means any use, whether such use is of such nature as to cause the property to be appreciably consumed or not, or the keeping of such property for such use or for sale, and shall include the exercise of any right or power over tangible personal property incident to the ownership of that property.

"Wine" means the product obtained from normal alcoholic fermentation of the juice of sound ripe grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage to which is added grape brandy, fruit brandy, or spirits of wine, which is distilled from the particular agricultural product or products of which the wine is made and other rectified wine products and by whatever name and which contains not more than twenty-four per cent of alcohol by volume, and includes vermouth and sake, known as Japanese rice wine, but does not include cooler beverage."

SECTION 3. Section 244D-3, Hawaii Revised Statutes, is amended to read as follows:

"[]§244D-3[] Cooperation between department and liquor commission. The department of taxation and the liquor commission, if the commission exercises its authority under this chapter, shall cooperate in the enforcement of this chapter.

The department shall notify the proper liquor commission of the name and address of every permittee whose permit has been revoked, and any license issued to the permittee under the liquor law thereupon shall be deemed forfeited.

The department may notify the proper liquor commission of the name and address of every person who has failed to file any return required, or to pay

any tax prescribed, or to secure a permit, or to perform any other duty or act imposed under this chapter, and such liquor commission shall thereupon suspend any license which may have been issued to any such person under the liquor law until such time as such person complies with this chapter.

The liquor commission, if the commission exercises its authority under this chapter, shall provide to the department the results of any examination the commission has undertaken pursuant to section 244D-10 and shall, upon request, furnish to the department any information in its possession relative to any person having a license issued by it, and its records shall be open to examination by the department."

SECTION 4. Section 244D-4, Hawaii Revised Statutes, is amended to read as follows:

"[[§244D-4[]] Tax; limitations. (a) Every person who sells or uses any liquor not taxable under this chapter, in respect of the transaction by which such person or his vendor acquired such liquor, shall pay an excise tax which is hereby imposed[, equal to twenty per cent of the wholesale price of the liquor so sold or used; provided that the tax] at the following rates for the various liquor categories defined in section 244D-1:

- (1) \$5.20 per wine gallon on distilled spirits;
- (2) \$2.00 per wine gallon on sparkling wine;
- (3) \$1.30 per wine gallon on still wine;
- (4) \$.81 per wine gallon on cooler beverages;
- (5) \$.81 per wine gallon on beer other than draft beer;
- (6) \$.50 per wine gallon on draft beer;

and at a proportionate rate for any other quantity so sold or used.

(b) The tax levied pursuant to subsection (a) shall be paid only once upon the same liquor; provided further that the tax shall not apply to:

- (1) Liquor held for sale by a permittee but not yet sold;
- (2) Liquor sold by one permittee to another permittee;
- (3) Liquor [which is neither delivered in the State nor to be used in the State, or] which under the Constitution and laws of the United States cannot be legally subjected to the tax imposed by this chapter so long as and to the extent to which the State is without power to impose the tax;
- (4) Liquor sold for sacramental purposes or the use of liquor for sacramental purposes, or any liquor imported pursuant to section 281-33;
- (5) Alcohol sold pursuant to section 281-37 to a person holding a purchase permit or prescription therefor, or any sale or use of alcohol, so purchased, for other than beverage purposes."

SECTION 5. Section 244D-5, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 244D-6, Hawaii Revised Statutes, is amended to read as follows:

"[[§244D-6[]] Return, form, contents. Every taxpayer shall, on or before the last day of each month, file with the department of taxation in the taxation district in which his business premises are located, or with the department in Honolulu, a return showing all sales of liquor by gallonage and dollar volume in each liquor category defined in section 244D-1 and taxed under section 244D-4(a) made by him during the preceding month, showing separately the amount of the nontaxable sales, and the amount of the taxable sales, and the tax payable thereon. The return shall also show the amount of liquor by

gallonage and dollar volume in each liquor category defined in section 244D-1 and taxed under section 244D-4(a) used during the preceding month which is subject to tax, and the tax payable thereon. The form of return shall be prescribed by the department and shall contain such information as it may deem necessary for the proper administration of this chapter."

SECTION 7. Section 244D-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every dealer shall keep a record of all sales of liquor by gallonage and dollar volume in each liquor category defined in section 244D-1 and taxed under section 244D-4(a) made by him, in such form as the department of taxation may prescribe. Every person holding a license under the liquor law, other than a manufacturer's or wholesaler's license, shall keep a record of all purchases by him of liquor[,] by gallonage and dollar volume in each liquor category defined in section 244D-1 and taxed under section 244D-4(a), in such form as the department may prescribe. All such records shall be offered for inspection and examination at any time upon demand by the department or commission and shall be preserved for a period of five years, except that the department may in writing consent to their destruction within such period or may require that they be kept longer.

The department may by [regulation] rule require the dealer to keep such other records as it may deem necessary for the proper enforcement of this chapter."

SECTION 8. Section 244D-10, Hawaii Revised Statutes, is amended to read as follows:

"[]§244D-10[] Inspection. The director of taxation, the liquor commission, or [his] the duly authorized agent[,] of either the director or commission, may examine all records required to be kept under this chapter, and books, papers, and records of any person engaged in the sale of liquor to verify the accuracy of the payment of the tax imposed by this chapter and other compliance with this chapter and regulations adopted pursuant thereto. Every person in possession of such books, papers, and records and his agents and employees shall give the director, the commission, or [his] the duly authorized agent of either of them, the means, facilities, and opportunities for such examination.

The authority granted to the liquor commission under this section shall not conflict with section 231-18 and shall not extend to the inspection of any documents not directly related to this chapter."

SECTION 9. Section 244D-13, Hawaii Revised Statutes, is amended to read as follows:

"[]§244D-13[] Other provisions applicable. All of the provisions of chapters 235 and 237 not inconsistent with this chapter and which may appropriately be applied to the taxes, persons, circumstances, and situations involved in this chapter, including (without prejudice to the generality of the foregoing) provisions as to penalties and interest, and provisions granting administrative powers to the director of taxation, and provisions for the assessment, levy, and collection of taxes, shall be applicable to the taxes imposed by this chapter, and to the assessment, levy, and collection thereof[.], except that returns, return information, or reports under this chapter and relating only to this chapter may be made known to the liquor commission by the department of taxation, if not in conflict with section 231-18."

SECTION 10. Section 244D-16, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Any person who fails or refuses to permit the examination of any book, paper, account, record, or property by the director, the commission, or [his] the authorized agent[,] of either of them, as required by this chapter, and any person who fails, neglects, or refuses to comply with or violates the rules and regulations prescribed, adopted, and promulgated by the director under this chapter, shall be fined not more than \$500, or imprisoned not more than six months, or both.”

SECTION 11. Section 237-25, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any provision of law to the contrary notwithstanding, there shall be exempted from, and excluded from the measures of, the taxes imposed by chapters 237[, 244D,] and 245 all sales, and the gross proceeds of all sales of:

- (1) Intoxicating liquor, as defined in chapter 281, hereafter sold by any person licensed under chapter 281 to the United States (including any agency or instrumentality thereof that is wholly owned or otherwise so constituted as to be immune from the levy of a tax under chapter 238 or [chapter] 244D but not including national banks), or to any organization to which such sale is permitted by the proviso of “Class 3” of section 281-31, located on any army, navy, or air force reservation, but the person making the sale shall nevertheless, within the meaning of chapters 237, 244D, and 281 be deemed to be a licensed seller.
- (2) Tobacco products, as defined in chapter 245, sold by any person licensed under the chapter to the United States (including any agency or instrumentality thereof that is wholly owned or otherwise so constituted as to be immune from the levy of a tax under chapter 238 or [chapter] 245 but not including national banks), but the person making the sale shall nevertheless, within the meaning of chapters 237 and 245, be deemed to be a licensed seller.
- (3) Other tangible personal property hereafter sold by any person licensed under this chapter to the United States (including any agency or instrumentality thereof but not including national banks), but the person making such sale shall nevertheless, within the meaning of this chapter, be deemed a licensed seller.
- (4) When the amount of property sold by a licensee turns upon the amount of the property sold through a vending machine or similar device to the customer using the device, there shall not be deemed to have occurred any sale covered by an exemption under paragraph (1), (2), or (3).”

SECTION 12. Section 281-3, Hawaii Revised Statutes, is amended to read as follows:

“§281-3 **Illegal manufacture, importation, or sale of liquor.** It shall be unlawful for any person not having a valid license to manufacture, sell, offer, expose, or keep for sale any liquor except as otherwise provided in this chapter; provided that the head of any family may produce for family use and not for sale an amount of wine not exceeding two hundred gallons a year, and an amount of beer not exceeding one hundred gallons a year.

It shall also be unlawful for any person, not having a valid wholesale license [or a valid manufacturer's (including rectifier's) license,] to import any

liquor from without the State, except as otherwise provided in this chapter. Liquor imported into this State shall come to rest at the warehouse of the wholesaler importing the liquor [and], shall be unloaded into such warehouse, and shall be held in such warehouse for at least forty-eight hours before further sale by such wholesaler.

It shall also be unlawful for any person to label, designate, or sell any liquor using the word "Hawaii", "Hawaiian", "Aloha State", "50th State", "Kauai", "Maui", "Oahu", or "Honolulu" unless such liquor is wholly or partially manufactured in the State.

A license shall constitute authority for the licensee to sell only the liquor thereby authorized to be sold by him."

SECTION 13. Section 281-17, Hawaii Revised Statutes, is amended to read as follows:

"§281-17 Jurisdiction and powers. The liquor commission, within its own county, shall have the sole jurisdiction, power, authority, and discretion, subject only to this chapter:

- (1) To grant, refuse, suspend, and revoke any licenses for the manufacture, importation, and sale of liquors;
- (2) To control, supervise, and regulate the manufacture, importation, and sale of liquors by investigation, enforcement, and education; provided that any educational program shall be limited to licensees and their employees and shall be financed through the money collected from the assessment of fines against licensees;
- (3) From time to time to make, amend, and repeal such rules, not inconsistent with this chapter, as in the judgment of the commission seem appropriate for carrying out this chapter and for the efficient administration thereof, and the proper conduct of the business of all licensees, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission; which rules, when adopted as provided in chapter 91 shall have the force and effect of law;
- (4) Subject to chapters 76 and 77, to appoint and remove a secretary (who may also be appointed an inspector), and such inspectors and clerical or other assistants as its business may from time to time require, to prescribe their duties, and fix their compensation; to engage the services of experts and persons engaged in the practice of a profession, if deemed expedient. Every inspector, within the scope of the inspector's duties, shall have the powers of a police officer. No employee of any commission, aside from exercising the right to vote, shall support, advocate, or aid in the election or defeat of any candidate for public office, and upon satisfactory proof of such prohibited activity the offender shall be summarily dismissed;
- (5) To limit the number of licenses of any class or kind within the county, or the number of licenses of any class or kind to do business in any given locality, when in the judgment of the commission such limitations are in the public interest;
- (6) To prescribe the nature of the proof to be furnished, the notices to be given, and the conditions to be met or observed in case of the issuance of a duplicate license in place of one alleged to have been lost or destroyed, including a requirement for any indemnity deemed appropriate to the case;

- (7) To fix the hours between which licensed premises of any class or classes may regularly be open for the transaction of business, which shall be uniform throughout the county as to each class respectively;
- (8) To prescribe all forms to be used for the purposes of this chapter not otherwise provided for in this chapter, and the character and manner of keeping of books, records, and accounts to be kept by licensees in any matter pertaining to their business;
- (9) To investigate violations of this chapter[,] and chapter 244D, through its inspectors or otherwise, and to report such violations to the prosecuting officer for prosecution[;] and, where appropriate, the director of taxation; to hear and determine complaints against any licensee; to subpoena and examine witnesses under oath and require the production of, and examine any of the books, papers, and records of any licensee which may pertain to the licensee's business under the license or which shall or may pertain to any matter at any hearing or investigation by or before the commission. Each member of the commission may investigate any matter of which the commission may take cognizance, and take testimony in the same manner as any court and neither the commission nor any member shall be bound by the strict legal rules of evidence;
- (10) To prescribe, by rule, the terms, conditions, and circumstances under which persons or any class of persons may be employed by holders of dispensers' and cabaret licenses;
- (11) To prescribe, by rule, the term of any license or solicitor's and representative's permit authorized by this chapter, the annual or prorated amount and the manner of payment of fees for such licenses and permits, and the amount of filing fees.

The commission and each member thereof shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses[,] and the production of documentary evidence, and examining the witnesses as are possessed by a circuit court.

The exercise by the commission of the power, authority, and discretion in it so vested shall be final in each case and shall not be reviewable by or appealable to any court or tribunal, except as otherwise provided in this chapter or chapter 91."

SECTION 14. Section 281-20, Hawaii Revised Statutes, is amended to read as follows:

"§281-20 General right of inspection. Each member of the liquor commission and its inspectors may, at all times, without notice and without any search warrant or other legal process, visit and have immediate access to every part of the premises of every licensee for the purpose of making any examination or inspection thereof or inquiry into the books and records [pertaining thereto and the manner of conduct of business under the license.] therein, to ascertain whether all of the conditions of the license and all provisions of this chapter and chapter 244D are being complied with by the licensee."

SECTION 15. Section 281-79, Hawaii Revised Statutes, is amended to read as follows:

"§281-79 Entry for examination; penalty. Every inspector shall, and any member of the liquor commission or any officer having police power may, at all reasonable times, and at any time whatsoever if there is any reasonable ground

for suspicion that the conditions of any license are being violated, without warrant enter into and upon any licensed premises and inspect the same and every part thereof, and any books or records therein, to ascertain whether or not all conditions of the license and all provisions of this chapter and chapter 244D are being complied with[,] by the licensee.

If any such officer, or any person called by him to his aid, is hindered, obstructed, or prevented by any licensee or his employees from entering into any such premises, or whenever any such officer is by any licensee or his employees opposed, obstructed, or molested in the performance of his duty in any respect, the licensee and every person who has assisted him in the offense, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Whenever any such officer, having demanded admittance into any licensed premises and declared his name and office, is not admitted by the licensee or the person in charge of the premises, it shall be lawful for the officer forcibly and in any manner to break into and enter the premises."

SECTION 16. Section 281-83, Hawaii Revised Statutes, is repealed.

SECTION 17. The department of taxation shall study and analyze the effect of this Act on the operations of the department and the revenues of the State. The department shall report to the legislature at least ten days before the convening of the regular sessions of 1987, 1988, and 1989 on its findings and shall submit such recommendations or legislation as may be necessary.

SECTION 18. Every person required to report under chapter 244D, Hawaii Revised Statutes, shall report by gallonage and dollar volume all sales of liquor after March 31, 1986, by each liquor category defined in section 244D-1, Hawaii Revised Statutes, and taxed under section 244D-4(a), Hawaii Revised Statutes.

SECTION 19. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 20. This Act shall take effect upon its approval; provided that the tax imposed under section 244D-4, Hawaii Revised Statutes, as amended by this Act shall apply to the sale of liquor made after June 30, 1986; provided further that on July 1, 1989, sections 1, 2, 4, 5, 6, 7, 11, 16, and 18 of this Act shall be repealed, and sections 244D-1, 244D-4, 244D-5, 244D-6, 244D-9, 237-25, and 281-83, Hawaii Revised Statutes, are reenacted in the form in which they read on the day before the approval of this Act.

(Approved June 13, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 345

H.B. NO. 1741-86

A Bill for an Act Making Appropriations for the Fiscal Biennium July 1, 1985 to June 30, 1987.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act shall be known and may be cited as the Supplemental Appropriations Act of 1986.

SECTION 2. This Act amends Act 300, Session Laws of Hawaii 1985.

SECTION 3. The appropriations and authorizations, or the expending agency, as the case may be, set forth opposite the cost categories in Section 3 of Act 300, Session Laws of Hawaii 1985, for the following programs are amended to read as follows:

PROGRAM APPROPRIATIONS

STATE OF HAWAII

		APPROPRIATIONS			
ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
Economic Development					
1. PED102 - Commerce and Industry					
		OPERATING	PED	32.00 * 9,495,682 A	32.00 * 12,014,889 A
			PED	1,300,000 R	1,400,000 R
			PED	3,100,000 W	3,100,000 W
			PED	95,000 X	95,000 X
		INVESTMENT CAPITAL	AGS	250,000 C	C
			PED		3,000,000 A
			PED	12,552,000 C	14,319,000 C
2. PED107 - Foreign Trade Zone Services					
		OPERATING	PED	23.00 * 1,217,119 B	23.00 * 1,306,250 B
		INVESTMENT CAPITAL	PED	1,050,000 D	100,000 D
3. AGR101 - Financial Assistance for Agriculture					
		OPERATING	AGR	15.00 * 716,335 B	15.00 * 649,940 B
			AGR	2,000,000 W	2,000,000 W
4. AGR103 - Price & Production Controls for Dairy Products					
		OPERATING	AGR	7.00 * 148,590 A	6.00 * 146,566 A
5. AGR121 - Plant Quarantine					
		OPERATING	AGR	48.91 * 1,108,628 A	48.91 * 1,145,831 A
			AGR	202,442 U	
6. AGR122 - Plant Pest Control					
		OPERATING	AGR	31.09 * 1,046,631 A	31.09 * 1,054,331 A
7. AGR131 - Animal Quarantine					
		OPERATING	AGR	40.00 * 1,217,576 A	40.00 * 1,248,070 A
			AGR	77,308 U	77,308 U
8. AGR132 - Animal Disease Control					
		OPERATING	AGR	23.50* 822,077 A	23.50* 859,857 A
			AGR	38,512 T	40,977 T

PROGRAM APPROPRIATIONS

STATE OF HAWAII

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
9. LNR172 - Forestry - Products Development					
		OPERATING	LNR	23.00 * 817,479 A	23.00 * 873,619 A
			LNR	104,833 N	104,833 N
10. AGR151 - Distribution Systems Improvement for AGR					
		OPERATING	AGR	38.00 * 1,685,156 A	38.00 * 1,588,997 A
			AGR	264,810 B	265,564 B
			AGR	37,916 N	38,051 N
11. AGR189 - Data Collection for AGR					
		OPERATING	AGR	12.00 * 381,829 A	12.00 * 371,692 A
12. AGR192 - General Administration for AGR					
		OPERATING	AGR	33.00 * 982,441 A	36.00 * 1,021,524 A
		INVESTMENT CAPITAL	AGS	2,000,000 C	198,000 C
13. AGR102 - Financial Assistance for Aquaculture					
		OPERATING	AGR	25,000 W	25,000 W
14. LNR153 - Commercial Fishery and Aquaculture					
		OPERATING	LNR	11.00 * 1,669,919 A	11.00 * 1,676,926 A
			LNR	160,590 N	160,590 N
		INVESTMENT CAPITAL	LNR	270,000 C	
15. PED120 - Energy Development and Management					
		OPERATING	PED	10.00 * 707,840 A	10.00 * 902,850 A
			PED		580,966 B
			PED	429,015 N	429,015 N
		INVESTMENT CAPITAL	PED	1,775,000 C	2,775,000 C
			PED	775,000 N	775,000 N
16. LNR141 - Water Development & Irrigation Services					
		OPERATING	LNR	18.00 * 571,233 A	18.00 * 573,528 A
			LNR	327,000 B	327,000 B
		INVESTMENT CAPITAL	LNR	10,415,000 C	7,575,000 C
17. PED130 - Econ Planning & Research for Econ Devpmt					
		OPERATING	PED	15.00 * 632,392 A	15.00 * 659,869 A
18. PED142 - General Support for Economic Development					
		OPERATING	PED	25.00 * 974,608 A	25.00 * 1,025,544 A

PROGRAM APPROPRIATIONS

STATE OF HAWAII

		APPROPRIATIONS			
ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
Employment					
1. LBR111 - Placement Services					
		OPERATING	LBR	3.00 * 61,122 A	3.00 * 61,493 A
			LBR	136.50 * 7,739,619 N	136.50 * 7,928,673 N
2. LBR123 - Apprenticeship & Other Training Programs					
		OPERATING	LBR	7.00 * 169,590 A	7.00 * 170,386 A
3. LBR131 - Employment and Training Programs					
		OPERATING	LBR	512,430 A 15.00 *	494,602 A 15.00 *
			LBR	10,368,927 N	10,977,357 N
4. LBR135 - Commission on Manpower and Full Employment					
		OPERATING	LBR	6.00 * 152,652 A	6.00 * 172,799 A
			LBR	145,270 N	149,622 N
5. LBR143 - Occupational Safety & Health					
		OPERATING	LBR	50.50 * 1,301,527 A	50.50 * 1,262,870 A
			LBR	29.50 * 1,064,766 N	29.50 * 1,082,440 N
6. LBR152 - Wage Standards & Fair Employment Practice					
		OPERATING	LBR	29.00 * 771,641 A	29.00 * 768,275 A
			LBR	45,000 N	45,000 N
7. LBR161 - Public Employment					
		OPERATING	LBR	3.00 * 470,729 A	3.00 * 471,813 A
8. LBR162 - Private Employment					
		OPERATING	LBR	1.00 * 28,110 A	0.00 * A
9. LBR171 - Unemployment Compensation					
		OPERATING	LBR	2,126,750 A	2,262,862 A
			LBR	84,700,000 B	90,100,000 B
			LBR	279.85 * 8,348,459 N	279.85 * 8,460,969 N
10. LBR183 - Disability Compensation					
		OPERATING	LBR	94.00 * 2,178,124 A	98.00 * 2,200,288 A
			LBR	8,835,000 B	9,235,000 B

PROGRAM APPROPRIATIONS

STATE OF HAWAII

			APPROPRIATIONS		
ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
11. SOC802 - Vocational Rehabilitation					
		OPERATING	SOC	32.70 *	32.70 *
			SOC	2,534,924 A	2,639,962 A
				563,428 B	594,525 B
				93.30 *	93.30 *
			SOC	3,370,580 N	3,452,038 N
12. LBR901 - DLIR-Data Gathering, Research and Analysis					
		OPERATING	LBR	12.40 *	12.40 *
				951,645 A	970,110 A
				26.60 *	26.60 *
			LBR	1,207,103 N	1,228,706 N
13. LBR902 - General Administration					
		OPERATING	LBR	24.20 *	31.20 *
				1,341,195 A	4,805,728 A
				38.30 *	41.30 *
			LBR	1,604,117 N	3,218,150 N
14. LBR812 - Labor & Industrial Relations Appeals Board					
		OPERATING	LBR	9.00 *	9.00 *
				323,742 A	349,981 A
Transportation Facilities					
1. TRN102 - HIA Facilities and Services					
		OPERATING	TRN	448.00 *	481.00 *
		INVESTMENT CAPITAL	TRN	32,264,800 B	29,612,871 B
			TRN	5,000,000 B	9,000,000 B
			TRN	20,420,000 E	42,910,000 E
			TRN	100,000 N	100,000 N
2. TRN104 - General Aviation Facilities and Services					
		OPERATING	TRN	2.00 *	2.00 *
		INVESTMENT CAPITAL	TRN	250,505 B	342,331 B
			TRN	4,000,000 E	
			TRN	1,000,000 N	
3. TRN111 - General Lyman Field Facilities & Service					
		OPERATING	TRN	75.00 *	75.00 *
		INVESTMENT CAPITAL	TRN	3,796,851 B	4,086,099 B
				440,000 E	
4. TRN114 - Ke-Ahole Airport Facilities and Services					
		OPERATING	TRN	56.00 *	56.00 *
		INVESTMENT CAPITAL	TRN	2,802,564 B	2,801,766 B
			TRN	4,700,000 E	4,000,000 E
			TRN	500,000 N	
5. TRN116 - Waimea-Kohala Airport Facilities & Services					
		OPERATING	TRN	2.00 *	2.00 *
				168,139 B	142,370 B

PROGRAM APPROPRIATIONS

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ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
6.	TRN118	Upolu Airport Facilities & Services			
		OPERATING	TRN	22,869 B	5,720 B
7.	TRN131	Kahului Airport Facilities and Services			
		OPERATING	TRN	74.00 *	77.00 *
		INVESTMENT CAPITAL	TRN	3,230,560 B	3,390,354 B
			TRN	5,000,000 B	5,000,000 B
			TRN	16,850,000 E	8,400,000 E
			TRN	1,500,000 N	1,400,000 N
8.	TRN133	Hana Airport Facilities and Services			
		OPERATING	TRN	1.00 *	1.00 *
				103,998 B	45,389 B
9.	TRN141	Molokai Airport Facilities and Services			
		OPERATING	TRN	7.00 *	7.00 *
		INVESTMENT CAPITAL	TRN	436,664 B	322,039 B
			TRN	385,000 E	
10.	TRN143	Kalaupapa Airport Facilities and Services			
		OPERATING	TRN	1.00 *	1.00 *
				91,613 B	73,182 B
11.	TRN151	Lanai Airport Facilities and Services			
		OPERATING	TRN	3.00 *	3.00 *
				152,587 B	124,539 B
12.	TRN161	Lihue Airport Facilities and Services			
		OPERATING	TRN	66.00 *	67.00 *
		INVESTMENT CAPITAL	TRN	3,027,202 B	3,462,427 B
			TRN	4,000,000 B	
			TRN	4,050,000 E	
13.	TRN163	Port Allen Airport Facilities and Services			
		OPERATING	TRN	618 B	656 B
14.	TRN195	Air Transportation Facilities And Services Support			
		OPERATING	TRN	63.00 *	64.00 *
		INVESTMENT CAPITAL	TRN	61,734,183 B	62,434,385 B
			TRN	4,500,000 B	10,400,000 B
			TRN	5,540,000 E	6,500,000 E
			TRN	1,400,000 N	
15.	TRN301	Honolulu Harbor Facilities and Services			
		OPERATING	TRN	129.00 *	129.00 *
		INVESTMENT CAPITAL	AGS	8,200,009 B	8,069,793 B
			TRN	C	
			TRN	885,000 B	1,005,000 B
			TRN	800,000 E	2,500,000 E

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ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
16. TRN303 - Barbers Point Harbor Facilities and Services					
		OPERATING	TRN	2.00 * 188,856 B	2.00 * 160,407 B
		INVESTMENT CAPITAL	TRN	150,000 B	
			TRN	7,150,000 E	4,950,000 E
17. TRN305 - Kewalo Basin Facilities and Services					
		OPERATING	TRN	3.00 * 426,027 B	3.00 * 426,585 B
		INVESTMENT CAPITAL	TRN		1,490,000 C
18. TRN311 - Hilo Harbor Facilities and Services					
		OPERATING	TRN	10.00 * 830,835 B	10.00 * 836,747 B
		INVESTMENT CAPITAL	TRN	2,000,000 E	800,000 E
19. TRN313 - Kawaihae Harbor Facilities and Services					
		OPERATING	TRN	5.00 * 292,314 B	5.00 * 311,129 B
20. TRN331 - Kahului Harbor Facilities and Services					
		OPERATING	TRN	12.00 * 806,590 B	12.00 * 794,820 B
		INVESTMENT CAPITAL	TRN	820,000 B	200,000 B
21. TRN341 - Kaunakakai Harbor Facilities and Services					
		OPERATING	TRN	1.00 * 102,426 B	1.00 * 103,848 B
22. TRN361 - Nawiliwili Harbor Facilities and Services					
		OPERATING	TRN	11.50 * 567,669 B	11.50 * 579,603 B
		INVESTMENT CAPITAL	TRN	50,000 B	810,000 B
23. TRN363 - Port Allen Harbor Facilities and Service					
		OPERATING	TRN	1.00 * 85,968 B	1.00 * 104,041 B
24. TRN395 - Water Transportation Facilities and Services Support					
		OPERATING	TRN	51.00 * 13,633,347 B	51.00 * 14,756,113 B
		INVESTMENT CAPITAL	TRN	406,000 B	260,000 B

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25. TRN501 - Oahu Highways and Services					
		OPERATING	TRN	219.00 *	219.00 *
		INVESTMENT CAPITAL	TRN	18,051,367 B	16,432,965 B
			TRN	788,000 B	795,000 B
			TRN	21,667,000 D	30,811,000 D
			TRN	100,228,000 J	176,330,000 J
			TRN	9,997,000 K	8,409,000 K
			TRN		275,000 N
26. TRN511 - Hawaii Highways and Services					
		OPERATING	TRN	110.00 *	110.00 *
		INVESTMENT CAPITAL	TRN	4,871,085 B	6,215,689 B
			TRN	315,000 B	98,000 B
			TRN	2,646,000 D	2,570,000 D
			TRN	2,322,000 K	
			TRN	312,000 L	
			TRN	532,000 N	7,125,000 N
27. TRN531 - Maui Highways and Services					
		OPERATING	TRN	54.00 *	54.00 *
		INVESTMENT CAPITAL	TRN	3,109,533 B	3,669,846 B
			TRN	600,000 B	550,000 B
			TRN	2,135,000 D	1,715,000 D
			TRN	1,480,000 K	
			TRN		275,000 N
28. TRN541 - Molokai Highways and Services					
		OPERATING	TRN	12.00 *	12.00 *
		INVESTMENT CAPITAL	TRN	609,953 B	857,221 B
			TRN	60,000 B	580,000 B
			TRN	35,000 D	680,000 D
			TRN	37,000 N	1,920,000 N
29. TRN551 - Lanai Highways and Services					
		OPERATING	TRN	3.00 *	3.00 *
		INVESTMENT CAPITAL	TRN	114,151 B	258,700 B
			TRN	30,000 B	300,000 B
30. TRN561 - Kauai Highways and Services					
		OPERATING	TRN	41.00 *	41.00 *
		INVESTMENT CAPITAL	TRN	3,386,896 B	2,629,730 B
			TRN	217,000 B	515,000 B
			TRN	3,904,000 D	2,700,000 D
			TRN	2,660,000 K	6,300,000 K
			TRN	2,865,000 N	
31. TRN595 - Land Transportation Facilities and Services Support					
		OPERATING	TRN	49.00 *	49.00 *
		INVESTMENT CAPITAL	TRN	31,630,708 B	31,456,671 B
			TRN	848,000 B	882,000 B
			TRN	1,225,000 D	1,025,000 D
			TRN	3,288,000 N	3,354,000 N

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32. TRN597 - Safety Administration of Land Transportation					
		OPERATING	TRN	19.50 * 605,748 B 4.50 *	19.50 * 618,695 B 4.50 *
			TRN	131,893 N	133,092 N
33. TRN995 - Overall Program Support for Trans Facilities & Services					
		OPERATING	TRN	84.00 * 3,898,584 B	84.00 * 4,919,539 B
Environmental Protection					
1. HTH840 - Solids, Liquids, Gases, and Noise					
		OPERATING	HTH	46.50 * 1,154,678 A 12.00 *	46.50 * 1,118,431 A 9.00 *
		INVESTMENT CAPITAL	HTH	1,086,184 N 4,700,000 C	1,086,184 N 4,700,000 C
2. AGR846 - Pesticides					
		OPERATING	AGR	16.00 * 318,018 A	18.00 * 487,984 A
3. LNR401 - Aquatic Resources					
		OPERATING	LNR	16.00 * 387,047 A 58,537 N	16.00 * 450,460 A 58,837 N
4. LNR402 - Forests and Wildlife Resources					
		OPERATING	LNR	53.00 * 1,427,647 A 334,360 N	53.00 * 1,427,790 A 344,360 N
		INVESTMENT CAPITAL	LNR	914,000 C	1,485,000 C
5. LNR403 - Mineral Resources					
		OPERATING	LNR	3.00 * 111,266 A	3.00 * 111,345 A
6. LNR404 - Water Resources					
		OPERATING	LNR	13.00 * 920,970 A	13.00 * 922,822 A
		INVESTMENT CAPITAL	LNR	650,000 C	2,900,000 C 2,000,000 X
7. LNR405 - Conservation & Resources Enforcement					
		OPERATING	LNR	68.00 * 1,877,707 A 26,240 N	68.00 * 1,874,549 A 26,622 N

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
8. TRN903 - Coastal Areas					
		OPERATING	TRN	13,587 A	14,130 A
		INVESTMENT CAPITAL	TRN	350,000 C	92,000 C
9. HTH850 - Policy Dvlpmnt, Coord & Anlys for Natural Physical Environ					
		OPERATING	HTH	11.00 * 533,501 A	11.00 * 516,784 A
10. LNR906 - Lnr-Natural Physical Environment					
		OPERATING	LNR LNR	31.50 * 1,071,327 A 26,262 N	31.50 * 1,024,432 A 27,381 N
11. HTH849 - Hth-Natural Physical Environment					
		OPERATING	HTH	11.00 * 567,332 A	11.00 * 567,165 A
			HTH	3.00 * 147,919 N	3.00 * 147,919 N
Health					
1. HTH101 - Tuberculosis					
		OPERATING	HTH HTH	46.00 * 1,340,989 A 60,148 N	46.00 * 1,353,812 A 60,148 N
2. HTH111 - Hansen's Disease					
		OPERATING	HTH HTH HTH	73.00 * 3,213,570 A 155,000 B 370,000 N	73.00 * 3,290,348 A 160,000 B 370,000 N
		INVESTMENT CAPITAL	AGS	107,000 C	48,000 C
3. HTH121 - Venereal Disease					
		OPERATING	HTH	10.00 * 369,478 A	10.00 * 651,146 A
			HTH	4.00 * 309,000 N	4.00 * 340,000 N
4. HTH131 - Other Communicable Diseases					
		OPERATING	HTH	10.00 * 634,511 A	10.00 * 642,058 A
			HTH	1.00 * 215,000 N	1.00 * 217,000 N
5. HTH139 - Supporting Services for Communicable Diseases					
		OPERATING	HTH	5.00 * 206,511 A	5.00 * 207,400 A

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
6.	HTH141	Dental Diseases			
		OPERATING	HTH	43.60 * 948,748 A	43.60 * 955,414 A
7.	HTH151	Chronic Diseases			
		OPERATING	HTH	5.00 * 737,726 A	5.00 * 771,430 A
8.	HTH160	Nutrition Services			
		OPERATING	HTH	7.75 * 174,306 A	7.75 * 177,104 A
			HTH	7.00 * 3,057,000 N	7.00 * 3,213,000 N
9.	HTH170	Emergency Medical Services			
		OPERATING	HTH	9.00 * 14,087,022 A	9.00 * 14,811,717 A
			HTH	271,793 N	271,793 N
10.	HTH185	Family Planning			
		OPERATING	HTH	5.00 * 599,898 A	5.00 * 632,748 A
			HTH	5.00 * 961,946 N	5.00 * 961,946 N
11.	HTH191	School Health Services			
		OPERATING	HTH	246.45 * 4,517,474 A	337.25 * 4,843,524 A
			HTH		2.00 * 74,742 N
12.	HTH801	Health Care Services			
		OPERATING	HTH	42.00 * 2,544,906 A	35.00 * 2,410,299 A
			HTH	46.00 * 1,551,782 N	44.00 * 1,481,767 N
13.	HTH211	Hilo Hospital			
		OPERATING	HTH	958,250 A 539.20 *	562,494 A 539.20 *
			HTH	19,805,033 B	19,805,033 B
14.	HTH212	Honokaa Hospital			
		OPERATING	HTH	625,498 A 46.00 *	734,208 A 46.00 *
			HTH	1,152,458 B	1,147,411 B
15.	HTH213	Ka'u Hospital			
		OPERATING	HTH	594,265 A 32.00 *	802,969 A 32.00 *
			HTH	579,262 B	579,262 B

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
16.	HTH214	Kohala Hospital			
		OPERATING	HTH	640,062 A	698,279 A
				36.50 *	36.50 *
			HTH	747,000 B	738,000 B
17.	HTH215	Kona Hospital			
		OPERATING	HTH	2,230,642 A	2,018,946 A
				188.00 *	188.00 *
		INVESTMENT CAPITAL	HTH	5,672,721 B	5,672,721 B
			AGS	210,000 C	
18.	HTH221	Maui Memorial Hospital			
		OPERATING	HTH	446.00 *	446.00 *
				17,969,595 B	18,015,348 B
19.	HTH222	Hana Medical Center			
		OPERATING	HTH	352,705 A	359,852 A
				7.00 *	7.00 *
			HTH	128,714 B	178,714 B
20.	HTH223	Kula Hospital			
		OPERATING	HTH	1,054,158 A	1,080,845 A
				177.00 *	177.00 *
			HTH	3,841,745 B	3,825,107 B
21.	HTH224	Lanai Hospital			
		OPERATING	HTH	106,471 A	106,547 A
				21.00 *	21.00 *
			HTH	677,100 B	694,136 B
22.	HTH231	Kauai Veterans Memorial Hospital			
		OPERATING	HTH	1,382,692 A	1,455,581 A
				138.00 *	138.00 *
			HTH	3,255,000 B	3,299,232 B
23.	HTH232	Samuel Mahelona Memorial Hospital			
		OPERATING	HTH	637,527 A	654,275 A
				145.00 *	145.00 *
			HTH	3,258,579 B	3,258,579 B
24.	HTH241	Maluhia Hospital			
		OPERATING	HTH	814,828 A	894,447 A
				182.00 *	182.00 *
			HTH	4,556,630 B	4,556,630 B
25.	HTH242	Leahi Hospital			
		OPERATING	HTH	2,222,039 A	2,222,565 A
				280.00 *	280.00 *
			HTH	6,066,994 B	6,066,994 B

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26. HTH401 - Community Based Services for Mental Health					
		OPERATING	HTH	326.50 * 14,692,649 A	326.50 * 15,376,131 A
			HTH	3.00 * 2,703,312 N	3.00 * 2,722,497 N
27. HTH430 - Hawaii State Hospital					
		OPERATING	HTH	418.00 * 9,420,446 A	418.00 * 9,551,441 A
		INVESTMENT CAPITAL	AGS		15,000,000 C
28. HTH495 - General Support for Mental Health					
		OPERATING	HTH	30.00 * 1,079,091 A	30.00 * 1,093,799 A
			HTH	1.00 * 804,445 N	1.00 * 747,291 N
29. HTH500 - Identification, Evaluation and Treatment for DD					
		OPERATING	HTH	66.35 * 2,707,763 A	66.35 * 2,896,112 A
30. HTH501 - Community Based Services for DD					
		OPERATING	HTH	57.00 * 3,335,984 A	57.00 * 3,591,519 A
31. HTH511 - Waimano Training School and Hospital					
		OPERATING	HTH	478.00 * 11,890,135 A	478.00 * 12,305,599 A
			HTH	39,000 N	39,000 N
		INVESTMENT CAPITAL	HTH	5,773,000 X	5,773,000 X
			AGS	135,000 C	
32. HTH601 - Vector Control					
		OPERATING	HTH	86.00 * 1,748,409 A	86.00 * 1,779,148 A
			HTH	2.00 * 37,827 X	2.00 * 37,827 X
		INVESTMENT CAPITAL	AGS	35,000 C	562,000 C
33. HTH611 - Sanitation and Substance Control					
		OPERATING	HTH	88.50 * 2,055,761 A	88.50 * 2,152,996 A
34. HTH621 - Drinking Water Quality					
		OPERATING	HTH	3.00 * 79,779 A	3.00 * 79,779 A
			HTH	1.00 * 268,000 N	4.00 * 282,000 N

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35. HTH701 - Medical Facilities-Stds, Inspection and Licensing					
	OPERATING		HTH	9.00 * 287,629 A	13.00 * 364,309 A
			HTH	6.00 * 225,203 N	6.00 * 225,203 N
36. HTH901 - Laboratory Services					
	OPERATING		HTH	54.50 * 1,528,151 A	57.50 * 1,450,023 A
37. HTH902 - Public Health Nursing Services					
	OPERATING		HTH	148.00 * 3,654,439 A	151.00 * 3,748,131 A
			HTH	4.00 * 19,249 B	4.00 * 19,249 B
			HTH	308,897 N	308,897N
38. HTH903 - Records, Data Collection and Research					
	OPERATING		HTH	36.00 * 1,035,388 A	36.00 * 996,415 A
			HTH	67,000 N	67,000 N
39. HTH908 - Health Education					
	OPERATING		HTH	17.00 * 713,373 A	18.00 * 721,470 A
			HTH	305,408 N	305,408 N
40. HTH906 - Comprehensive Health Planning					
	OPERATING		HTH	6.00 * 191,143 A	6.00 * 192,756 A
			HTH	11.50 * 532,747 N	11.50 * 532,747 N
41. HTH907 - General Administration					
	OPERATING		HTH	123.00 * 4,673,182 A	123.00 * 5,803,286 A
			HTH	15.00 * 1,376,438 B	15.00 * 1,476,504 B
			HTH	5.50 * 327,022 N	5.50 * 327,022 N
42. SUB601 - Private Hospitals and Medical Services					
	OPERATING		SUB	962,159 A	1,259,043 A
Social Services					
1. SOC111 - Services to Individuals and Families					
	OPERATING		SOC	154.69 * 9,033,147 A	164.19 * 9,808,890 A
			SOC	207.81 * 13,285,841 N	207.81 * 13,285,841 N
			SOC	128,880 U	128,880 U

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2. SOC201 - Payments to Assist Families with Dependents					
		OPERATING	SOC	40,618,934 A	36,015,212 A
			SOC	44,254,445 N	37,218,694 N
3. SOC202 - Payments to Assist the Aged, Blind and Disabled					
		OPERATING	SOC	5,752,997 A	5,765,737 A
4. SOC203 - Child Foster Board Payments					
		OPERATING	SOC	2,635,800 A	2,920,920 A
			SOC	77,436 N	77,436 N
5. SOC204 - Other General Assistance Payments					
		OPERATING	SOC	19,556,601 A	17,076,020 A
6. SOC206 - Other Federal Assistance Payments					
		OPERATING	SOC	4,046,751 N	4,146,468 N
7. SOC220 - Rental Housing Augmentation and Assistance					
		OPERATING	SOC	9.00 * 1,277,621 A 26.50 *	9.00 * 1,278,446 A 26.50 *
			SOC	1,845,158 B 183.00 *	1,927,800 B 183.00 *
		INVESTMENT CAPITAL	SOC	18,557,090 N	19,453,096 N 1,110,000 C
8. SOC225 - Private Housing Development and Ownership					
		OPERATING	SOC	15.00 * 1,480,177 B	15.00 * 1,543,545 B
9. SOC223 - Broadened Homesite Ownership					
		OPERATING	SOC	1.00 * 409,096 B	1.00 * 432,034 B
10. SOC807 - Teacher Housing					
		OPERATING	SOC	0.50 * 243,464 B	0.50 * 257,455 B
11. SOC229 - Housing Assistance Administration					
		OPERATING	SOC	14.00 * 825,490 B 12.00 *	14.00 * 865,853 B 12.00 *
			SOC	666,689 N	680,396 N
12. SOC227 - Housing Finance Program					
		OPERATING	SOC	4.00 * 567,016 B	4.00 * 570,166 B

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
13.		SOC230 - Health Care Payments			
		OPERATING	SOC	107,382,084 A	111,720,542 A
			SOC	84,913,511 N	90,503,154 N
			SOC	6,291,219 U	6,693,856 U
14.		SUB806 - Veterans Cemeteries and Burial Payments			
		OPERATING	SUB	38,461 A	40,923 A
15.		SOC236 - Eligibility Determination			
		OPERATING	SOC	358.18 *	363.20 *
			SOC	8,223,106 A	8,519,448 A
				275.82 *	287.30 *
			SOC	14,252,203 N	13,073,588 N
16.		SOC238 - Disability Determination			
		OPERATING	SOC	51.00 *	51.00 *
				2,210,278 N	2,282,541 N
17.		HHL602 - Plnng, Devpt and Mgt for Hawn Homestd Land			
		OPERATING	HHL	44.00 *	44.00 *
		INVESTMENT CAPITAL	HHL	1,559,874 B	1,586,967 B
				210,000 C	9,490,000 C
18.		HHL625 - General Support for Native Hawaiians			
		OPERATING	HHL	24.00 *	24.00 *
				907,243 B	919,493 B
19.		GOV859 - Progressive Neighborhoods Program			
		OPERATING	GOV	4.00 *	0.00 *
			GOV	684,675 A	A
				200,000 N	N
20.		GOV860 - Hawaii Office of Economic Opportunity			
		OPERATING	GOV	1.00 *	0.00 *
				2,261,886 A	A
				3.00 *	0.00 *
			GOV	1,386,598 N	N
21.		GOV861 - Plan, Prgm Dev, & Coord of Svcs for Children and Youth			
		OPERATING	GOV	9.00 *	9.00 *
				255,617 A	258,453 A
22.		GOV602 - Plan, Prgm Dev & Coord of Svcs for Elderly			
		OPERATING	GOV	5.80 *	5.95 *
				3,386,240 A	3,620,128 A
				8.20 *	9.05 *
			GOV	4,234,864 N	4,277,513 N

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23. HTH520 - Plan, Prgm Dev & Coord of Svcs for Handicapped					
		OPERATING	HTH	2.00 * 174,798 A	2.00 * 176,501 A
24. GOV803 - Plan, Prgm Dev & Coord of Svcs for Immigrants					
		OPERATING	GOV	2.00 * 300,014 A	0.00 * A
25. SOC903 - General Support for Public Welfare					
		OPERATING	SOC	42.24 * 2,134,839 A	42.66 * 2,393,152 A
			SOC	53.76 * 2,974,488 N	54.34 * 3,148,462 N
			SOC	165,280 S	171,308 S
26. SOC904 - General Administration (DSSH)					
		OPERATING	SOC	154.87 * 3,338,891 A	160.47 * 4,562,717 A
			SOC	17.13 * 519,730 N	18.53 * 548,575 N
Formal Education					
1. EDN105 - Regular Instruction Program					
		OPERATING	EDN	6,368.50 * 169,860,553 A	6,372.50 * 169,522,501 A
			EDN	10,316,187 N	10,316,187 N
		INVESTMENT CAPITAL	AGS	20,000,000 A	20,000,000 A
			AGS	26,176,000 C	27,431,000 C
2. EDN106 - Other Regular Instruction					
		OPERATING	EDN	537.50 * 25,913,517 A	537.50 * 26,185,194 A
			EDN	1,501,120 B	1,571,710 B
			EDN	1,311,980 N	1,348,719 N
3. EDN107 - Exceptional Child Program					
		OPERATING	EDN	895.00 * 23,479,267 A	898.50 * 24,484,708 A
			EDN	56,800 B	56,800 B
			EDN	3,704,042 N	4,004,042 N
4. EDN108 - Compensatory Education					
		OPERATING	EDN	109.00 * 10,199,795 A	109.00 * 10,279,935 A
			EDN	11,290,868 N	11,420,989 N

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5. EDN203 - School Administration					
		OPERATING	EDN	821.00 *	821.00 *
		INVESTMENT CAPITAL	AGS	23,153,482 A 1,320,000 C	23,189,529 A
6. EDN204 - Instructional Media					
		OPERATING	EDN	263.50 * 8,501,498 A	263.50 * 8,509,498 A
7. EDN205 - Instructional Development					
		OPERATING	EDN	99.00 * 5,131,255 A	102.00 * 5,107,376 A
			EDN	1,136,596 N	1,158,459 N
8. EDN206 - Counseling					
		OPERATING	EDN	313.00 * 9,047,719 A	313.00 * 9,493,055 A
9. EDN207 - Student Activities					
		OPERATING	EDN	35.00 * 4,075,802 A	36.00 * 3,738,927 A
10. EDN208 - Psychological & School Social Work Services					
		OPERATING	EDN	247.50 * 7,815,902 A	247.50 * 7,826,317 A
11. EDN303 - State Administration					
		OPERATING	EDN	220.00 * 8,597,842 A	221.00 * 8,546,661 A
		INVESTMENT CAPITAL	EDN AGS	780,838 N 40,000 C	784,974 N 300,000 C
12. EDN304 - District Administration					
		OPERATING	EDN	218.00 * 8,006,363 A	219.00 * 7,967,832 A
13. EDN305 - School Food Services					
		OPERATING	EDN	187.00 * 10,508,247 A	187.00 * 9,688,963 A
			EDN	696.50 * 10,386,763 B	696.50 * 12,253,823 B
		INVESTMENT CAPITAL	EDN AGS	16,675,907 N 2,603,000 C	17,614,669 N 2,808,000 C
14. EDN306 - Safety And Security Services					
		OPERATING	EDN	2,328,770 A	2,334,349 A
15. EDN307 - Physical Plant Operations & Maintenance					
		OPERATING	EDN	1,014.10 * 27,834,019 A	1,015.60 * 27,541,310 A

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16. AGS807 - Physical Plant Operations & Maintenance					
		OPERATING	AGS	230.00 * 19,088,862 A	230.00 * 19,808,613 A
17. AGS808 - Student Transportation					
		OPERATING	AGS	9.00 * 18,120,995 A	9.00 * 19,380,256 A
18. EDN406 - Adult Education					
		OPERATING	EDN EDN EDN	23.00 * 2,495,113 A 354,202 B 473,832 N	23.00 * 2,501,498 A 377,197 B 502,263 N
19. EDN407 - Public Libraries					
		OPERATING	EDN EDN	490.55 * 12,987,023 A 482,000 N	491.55 * 13,191,919 A 438,667 N
		INVESTMENT CAPITAL	AGS	2,326,000 C	2,381,000 C
20. UOH101 - Instruction - UOH, Manoa					
		OPERATING	UOH UOH UOH	1,528.96 * 53,426,689 A 6.00 * 4,318,458 B 277,785 N	1,534.46 * 54,227,251 A 6.00 * 4,396,234 B 277,785 N
		INVESTMENT CAPITAL	AGS	501,000 C	13,871,000 C
21. UOH102 - Organized Research - UOH, Manoa					
		OPERATING	UOH	501.97 * 21,410,325 A 34.42 * 1,272,297 N 3,176,785 W	501.97 * 21,454,531 A 34.42 * 1,310,062 N 3,487,728 W
		INVESTMENT CAPITAL	AGS TRN TRN UOH	1,157,000 E 12,000 C	 3,941,000 C 1,817,000 T
22. UOH103 - Public Service - UOH, Manoa					
		OPERATING	UOH UOH UOH UOH	90.41 * 3,502,563 A 12.00 * 2,188,125 B 43.64 * 1,412,404 N 50,224 W	91.41 * 3,505,641 A 12.00 * 2,249,232 B 43.64 * 1,453,529 N 52,430 W

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23. UOH104 - Academic Support - UOH, Manoa					
		OPERATING	UOH	362.10 * 14,203,069 A	365.60 * 14,096,579 A
			UOH	9.50 * 966,082 B	9.50 * 996,104 B
			UOH	6.00 * 1,081,620 W	6.00 * 1,157,015 W
24. UOH105 - Student Services - UOH, Manoa					
		OPERATING	UOH	164.25 * 6,173,256 A	164.25 * 5,560,422 A
			UOH	0.25 * 272,038 B	0.25 * 286,713 B
			UOH	842,000 N 113.75 *	842,000 N 113.75 *
			UOH	25,690,728 W 33.00 *	27,076,711 W 33.00 *
			UOH	5,145,623 X	5,349,978 X
25. UOH106 - Institutional Support - UOH, Manoa					
		OPERATING	UOH	393.50 * 20,741,639 A	394.50 * 20,454,473 A
			UOH	12.00 * 828,147 B	12.00 * 850,132 B
			UOH	9.00 * 2,605,831 W	9.00 * 2,739,963 W
		INVESTMENT CAPITAL	AGS	4,401,000 C	1,563,000 C
			PED	395,000 C	500,000 C
26. UOH211 - Instruction - UOH, Hilo					
		OPERATING	UOH	198.50 * 6,816,036 A	207.50 * 6,892,915 A
			UOH	475,088 B	478,970 B
			UOH	103,223 N	103,223 N
			UOH	224,425 W	236,320 W
		INVESTMENT CAPITAL	AGS	100,000 C	4,501,000 C
27. UOH213 - Public Service - UOH, Hilo					
		OPERATING	UOH	48,969 A	49,114 A
			UOH	186,471 B	190,223 B
28. UOH214 - Academic Support - UOH, Hilo					
		OPERATING	UOH	46.00 * 1,849,337 A	47.00 * 2,155,651 A
			UOH	5.00 * 234,533 B	5.00 * 239,799 B

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29. UOH215 - Student Services - UOH, Hilo					
		OPERATING	UOH	26.00 *	26.00 *
			UOH	1,120,331 A	1,127,123 A
			UOH	394,543 N	394,543 N
			UOH	6.00 *	6.00 *
			UOH	900,454 W	945,775 W
			UOH	131,039 X	137,329 X
		INVESTMENT CAPITAL	AGS	C	1,100,000 C
			AGS	E	
30. UOH216 - Institutional Support - UOH, Hilo					
		OPERATING	UOH	47.00 *	47.00 *
			UOH	2,396,868 A	2,296,409 A
			UOH	89,624 B	91,610 B
31. UOH301 - Instruction - Honolulu Community College					
		OPERATING	UOH	128.00 *	130.00 *
			UOH	4,245,488 A	4,287,496 A
			UOH	180,828 N	180,828 N
			UOH	285,830 W	297,988 W
		INVESTMENT CAPITAL	AGS	2,030,000 C	2,110,000 C
32. UOH302 - Public Service - Honolulu Community College					
		OPERATING	UOH	7.00 *	7.00 *
			UOH	609,876 A	612,968 A
			UOH	250,074 B	254,373 B
33. UOH303 - Academic Support - Honolulu Community College					
		OPERATING	UOH	28.00 *	28.00 *
			UOH	820,312 A	809,018 A
34. UOH304 - Student Services - Honolulu Community College					
		OPERATING	UOH	22.00 *	22.00 *
			UOH	588,744 A	589,968 A
			UOH	111,000 N	111,000 N
			UOH	6,081 W	6,362 W
35. UOH305 - Institutional Support - Honolulu CC					
		OPERATING	UOH	37.00 *	39.00 *
			UOH	1,552,132 A	1,491,749 A
			UOH	47,459 B	49,974 B
			UOH	100,877 W	106,224 W
36. UOH311 - Instruction - Kapiolani Community College					
		OPERATING	UOH	114.10 *	114.10 *
			UOH	4,414,917 A	4,434,502 A
			UOH	88,562 N	88,562 N
			UOH	4.00 *	4.00 *
			UOH	422,961 W	440,827 W
		INVESTMENT CAPITAL	AGS	11,146,000 C	4,147,000 C

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37. UOH312 - Public Service - Kapiolani Community College					
		OPERATING	UOH	2.00 * 74,800 A 1.00 *	2.00 * 75,241 A 4.00 *
			UOH	1,000,000 B	1,000,000 B
38. UOH313 - Academic Support - Kapiolani Community College					
		OPERATING	UOH	18.00 * 734,159 A	19.00 * 735,056 A
39. UOH314 - Student Services - Kapiolani Community College					
		OPERATING	UOH	22.00 * 565,101 A	22.00 * 562,544 A
			UOH	91,020 N	91,020 N
			UOH	9,148 W	9,510 W
40. UOH315 - Institutional Support - Kapiolani CC					
		OPERATING	UOH	32.00 * 1,376,041 A	33.00 * 1,420,256 A
			UOH	7,289 B	7,675 B
			UOH	89,046 W	93,765 W
41. UOH321 - Instruction - Leeward Community College					
		OPERATING	UOH	148.00 * 4,868,368 A	148.00 * 4,874,271 A
			UOH	54,561 N	54,561 N
			UOH	1.00 *	1.00 *
			UOH	185,733 W	193,317 W
42. UOH322 - Public Service - Leeward Community College					
		OPERATING	UOH	5.00 * 135,415 A	4.50 * 136,065 A
			UOH	1.00 *	1.00 *
			UOH	299,027 B	305,943 B
43. UOH323 - Academic Support - Leeward Community College					
		OPERATING	UOH	27.00 * 948,329 A	27.00 * 939,825 A
44. UOH324 - Student Services - Leeward Community College					
		OPERATING	UOH	32.00 * 875,793 A	32.00 * 870,128 A
			UOH	37,112 B	38,675 B
			UOH	125,000 N	125,000 N
			UOH	10,899 W	11,392 W
45. UOH325 - Institutional Support - Leeward CC					
		OPERATING	UOH	45.50 * 1,755,844 A	45.50 * 1,928,368 A

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46. UOH331 - Instruction - Windward Community College							
		OPERATING		UOH	42.50 * 1,313,252 A 12,847 W		42.50 * 1,316,977 A 13,528 W
47. UOH332 - Public Service - Windward Community College							
		OPERATING		UOH	2.00 * 77,880 A 150,000 B		2.00 * 78,657 A 150,000 B
48. UOH333 - Academic Support - Windward Community College							
		OPERATING		UOH	12.00 * 512,051 A		12.00 * 479,777 A
49. UOH334 - Student Services - Windward Community College							
		OPERATING		UOH	9.00 * 265,633 A 48,117 N 3,716 W		9.00 * 266,671 A 48,117 N 3,911 W
50. UOH335 - Institutional Support - Windward CC							
		OPERATING		UOH	16.00 * 597,964 A 1.00 * 62,684 W		16.00 * 601,229 A 1.00 * 65,104 W
51. UOH501 - Instruction - Maui Community College							
		OPERATING		UOH	67.00 * 2,180,398 A 26,090 N 2.00 *		67.00 * 2,193,791 A 26,090 N 2.00 *
		INVESTMENT CAPITAL		UOH AGS	203,117 W 81,000 C		211,834 W 2,822,000 C
52. UOH502 - Public Service - Maui Community College							
		OPERATING		UOH	2.50 * 133,103 A 0.50 * 93,904 B		2.50 * 133,584A 0.50 * 96,392 B
53. UOH503 - Academic Support - Maui Community College							
		OPERATING		UOH	14.00 * 461,165 A		15.00 * 571,423 A

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54. UOH504 - Student Services - Maui Community College					
	OPERATING		UOH	9.50 * 327,763 A	9.50 * 328,405 A
			UOH	2.00 *	2.00 *
			UOH	166,051 B	174,696 B
			UOH	118,000 N	118,000 N
			UOH	4,848 W	5,105 W
55. UOH505 - Institutional Support - Maui Community College					
	OPERATING		UOH	19.00 * 956,711 A	19.00 * 929,536 A
	INVESTMENT CAPITAL		PED	130,000 C	
56. UOH601 - Instruction - Kauai Community College					
	OPERATING		UOH	50.00 * 1,505,506 A	51.00 * 1,509,171 A
			UOH	1,735 N	1,735 N
			UOH	65,813 W	1.00 * 81,412 W
57. UOH602 - Public Service - Kauai Community College					
	OPERATING		UOH	0.50 * 18,039 A	0.50 * 18,092 A
			UOH	22,197 B	46,838 B
58. UOH603 - Academic Support - Kauai Community College					
	OPERATING		UOH	10.50 * 456,917 A	10.50 * 425,426 A
59. UOH604 - Student Services - Kauai Community College					
	OPERATING		UOH	10.00 * 271,899 A	10.00 * 272,557 A
			UOH	36,000 N	36,000 N
			UOH	3,231 W	3,402 W
60. UOH605 - Institutional Support - Kauai CC					
	OPERATING		UOH	25.50 * 1,320,676 A	25.50 * 1,311,092 A
			UOH	24,238 B	25,523 B
61. UOH701 - Instruction - West Oahu College					
	OPERATING		UOH	10.00 * 345,495 A	10.00 * 345,896 A
62. UOH704 - Academic Support - West Oahu College					
	OPERATING		UOH	3.50 * 153,310 A	3.50 * 153,633 A

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63. UOH705 - Student Services - West Oahu College					
		OPERATING	UOH	3.00 * 100,387 A	3.00 * 101,336 A
64. UOH706 - Institutional Support - West Oahu College					
		OPERATING	UOH	5.00 * 330,641 A	5.00 * 331,367 A
65. UOH901 - Academic Support - UOH, System-Wide Support					
		OPERATING	UOH UOH	39.50 * 3,795,681 A 850,000 B	44.50 * 4,791,875 A 894,016 B
66. UOH902 - Student Services - UOH, System-Wide Support					
		OPERATING	UOH	4.00 * 596,892 A	4.00 * 615,205 A
67. UOH903 - Institutional Sppt - UOH, System-Wide Sppt					
		OPERATING	UOH	183.75 * 6,221,403 A 6.00 *	186.75 * 6,475,630 A 6.00 *
		INVESTMENT CAPITAL	UOH AGS	562,344 B 500,000 C	584,891 B
68. UOH904 - Vocational Education, Statewide Coordination					
		OPERATING	UOH UOH	7.00 * 220,938 A 4.00 *	7.00 * 221,610 A 4.00 *
69. UOH905 - Statewide Plan & Coord for Post-Secondary					
		OPERATING	UOH	1,123,723 A	1,107,242 A
70. UOH906 - Community College Systemwide Support					
		OPERATING	UOH	31.00 * 3,032,534 A 16.00 *	36.00 * 2,915,579 A 16.00 *
			UOH	1,002,855 B 19.60 *	1,017,988 B 19.60 *
			UOH	918,744 N	918,744 N
			UOH	3.00 * 248,998 W	3.00 * 259,309 W

Culture and Recreation

1. LNR801 - Historical and Archaeological Places

OPERATING	LNR	26.00 * 915,114 A	26.00 * 903,332 A
INVESTMENT CAPITAL	LNR	820,000 C	1,430,000 C

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2. UOH881 - Aquaria					
		OPERATING	UOH	11.00 *	10.00 *
		INVESTMENT CAPITAL	AGS	432,896 A	445,803 A
					500,000 C
3. CCA701 - Hawaii Public Broadcasting					
		OPERATING	CCA	36.00 *	36.00 *
				1,656,933 A	1,684,953 A
			CCA	1.00 *	1.00 *
		INVESTMENT CAPITAL	AGS	1,374,466 W	1,443,068 W
				360,000 C	3,886,000 C
4. AGS881 - Performing and Visual Arts Events					
		OPERATING	AGS	12.00 *	12.00 *
			AGS	2,237,297 A	2,282,092 A
			AGS	560,574 N	540,064 N
		INVESTMENT CAPITAL	AGS	15,000 R	15,000 R
			SUB		7,000,000 A
5. AGS818 - Ethnic Group Presentations					
		OPERATING	AGS	55,634 A	57,472 A
			AGS	7,500 B	7,500 B
6. LNR804 - Forest Recreation					
		OPERATING	LNR	32.00 *	32.00 *
			LNR	775,075 A	797,152 A
		INVESTMENT CAPITAL	LNR	266,160 N	270,234 N
			LNR	176,000 C	116,000 C
7. LNR805 - Aquatic Recreation					
		OPERATING	LNR	8.00 *	8.00 *
			LNR	153,845 A	154,870 A
			LNR	254,152 N	262,820 N
8. LNR806 - Parks Recreation					
		OPERATING	LNR	109.00 *	110.00 *
		INVESTMENT CAPITAL	LNR	2,750,439 A	2,893,309 A
			LNR	4,549,000 C	4,112,000 C
9. TRN801 - Ocean-Based Recreation					
		OPERATING	TRN	51.50 *	51.50 *
		INVESTMENT CAPITAL	TRN	4,129,283 B	4,313,672 B
			TRN	1,050,000 C	420,000 C
			TRN	1,875,000 D	4,130,000 D
10. AGS889 - Spectator Events and Shows - Aloha Stadium					
		OPERATING	AGS	37.00 *	37.00 *
		INVESTMENT CAPITAL	AGS	2,128,909 B	2,370,242 B
			AGS	2,352,000 C	6,505,000 C

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11. LNR809 - General Admin for Culture and Recreation					
		OPERATING	LNR	22.00 * 467,536 A	22.00 * 471,936 A
			LNR	2,121,412 N	2,123,045 N
		INVESTMENT CAPITAL	LNR	275,000 C	160,000 C
			LNR		50,000 N
Public Safety					
1. SOC394 - Intake Services Centers					
		OPERATING	SOC	70.00 * 1,673,854 A	61.00 * 1,502,885 A
2. SOC401 - Juvenile Correctional Facilities					
		OPERATING	SOC	83.50 * 2,940,053 A	83.50 * 2,798,736 A
3. SOC402 - High Security Facility					
		OPERATING	SOC	133.00 * 3,319,057 A	133.00 * 3,289,184 A
		INVESTMENT CAPITAL	AGS		168,000 C
4. SOC403 - Kulani Correctional Facility					
		OPERATING	SOC	68.33 * 2,337,561 A	72.33 * 2,721,460 A
		INVESTMENT CAPITAL	AGS	167,000 C	839,000 C
5. SOC404 - Waiawa Correctional Facility					
		OPERATING	SOC	27.50 * 641,977 A	48.50 * 2,818,546 A
		INVESTMENT CAPITAL	AGS	375,000 C	2,780,000 C
6. SOC405 - Hawaii Community Correctional Center					
		OPERATING	SOC	40.50 * 1,122,899 A	40.50 * 1,062,734 A
		INVESTMENT CAPITAL	AGS	210,000 C	1,765,000 C
7. SOC406 - Maui Community Correctional Center					
		OPERATING	SOC	44.50 * 1,192,079 A	49.50 * 1,394,355 A
8. SOC407 - Oahu Community Correctional Center					
		OPERATING	SOC	594.10 * 18,339,752 A	613.10 * 19,252,477 A
		INVESTMENT CAPITAL	AGS	448,000 C	1,229,000 C
9. SOC408 - Kauai Community Correctional Center					
		OPERATING	SOC	37.50 * 1,019,095 A	41.50 * 1,137,579 A

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10. SOC409 - Hawaii Women's Correctional Facility					
		OPERATING	SOC	54.00 * 1,778,031 A	64.00 * 2,409,223 A
11. SOC410 - Halawa Medium Security Facility					
		OPERATING	SOC	4.00 * 60,473 A	261.00 * 3,712,347 A
		INVESTMENT CAPITAL	AGS	11,500,000 C	
12. UOH859 - Social Rehabilitation of Confined Adults					
		OPERATING	UOH	6.00 * 226,708 A	6.00 * 229,490 A
			UOH	34,027 N	34,027 N
			UOH	3,231 W	3,402 W
13. SOC411 - Adult Parole Determinations					
		OPERATING	SOC	2.00 * 85,482 A	2.00 * 85,981 A
14. SOC413 - Adult Parole Supervision and Counseling					
		OPERATING	SOC	19.00 * 406,670 A	24.00 * 501,287 A
15. SOC414 - Criminal Injuries Compensation					
		OPERATING	SOC	3.00 * 99,350 A	3.00 * 101,069 A
16. SOC493 - General Administration-Confinement					
		OPERATING	SOC	26.00 * 942,900 A	34.00 * 1,749,443 A
		INVESTMENT CAPITAL	AGS	219,781 B 3,000,000 C	233,847 B
17. ATG231 - State Criminal Justice Info & Identification					
		OPERATING	ATG	24.00 * 760,107 A	25.00 * 816,953 A
18. LNR810 - Prevention of Natural Disasters					
		OPERATING	LNR	3.00 * 117,380 A	3.00 * 118,247 A
		INVESTMENT CAPITAL	LNR	300,000 C	2,700,000 C
			LNR		1,000,000 S
19. DEF110 - Amelioration of Physical Disasters					
		OPERATING	DEF	142.40 * 5,661,809 A	142.40 * 5,749,658 A
			DEF	6.10 * 1,490,932 N	6.10 * 1,534,689 N
		INVESTMENT CAPITAL	AGS	3,541,000 C	1,315,000 C
			AGS	3,700,000 N	1,430,000 N

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Individual Rights					
1. AGR810 - Testing and Certification of Consumer Good					
		OPERATING	AGR	26.25 * 620,098 A	26.25 * 599,609 A
			AGR	26.25 * 781,716 N	26.25 * 779,007 N
2. CCA103 - Consumer Advocate for Comm, Util and Trans Svc					
		OPERATING	CCA	20.00 * 1,001,103 A	20.00 * 1,005,552 A
			CCA	4.00 * 258,485 X	4.00 * 265,083 X
3. CCA104 - Banking Services					
		OPERATING	CCA	26.00 * 825,432 A	26.00 * 823,863 A
4. CCA106 - Insurance Services					
		OPERATING	CCA	31.00 * 1,249,238 A	31.00 * 1,187,215 A
5. CCA105 - Professional, Vocational and Personal Services					
		OPERATING	CCA	42.00 * 1,417,073 A	42.00 * 1,574,792 A
6. BUF901 - Transportation, Communications, and Utilities					
		OPERATING	BUF	24.00 * 890,389 A	24.00 * 838,429 A
7. CCA111 - Business Registration					
		OPERATING	CCA	24.00 * 566,178 A	26.00 * 632,389 A
			CCA	272,472 B	275,867 B
8. AGR812 - Measurement Standards					
		OPERATING	AGR	21.00 * 536,107 A	21.00 * 533,305 A
9. CCA110 - Office of Consumer Prot - Adv and Terms of Sale					
		OPERATING	CCA	27.00 * 675,588 A	27.00 * 677,018 A
10. CCA191 - General Support-Protection of the Consumer					
		OPERATING	CCA	49.00 * 1,557,131 A	50.00 * 1,579,402 A
			CCA	1,100,395 B	1,114,505 B

PROGRAM APPROPRIATIONS

STATE OF HAWAII

			APPROPRIATIONS		
ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
11. BUF151 - Legal Assistance in Criminal Actions					
		OPERATING	BUF	72.00 * 3,068,895 A	72.00 * 3,149,207 A
12. LNR111 - Conveyances and Recordings					
		OPERATING	LNR	44.00 * 885,655 A	44.00 * 870,807 A
13. SOC888 - Commission on the Status of Women					
		OPERATING	SOC	39,546 A	39,968 A
Government-Wide Support					
1. GOV100 - Office of the Governor					
		OPERATING	GOV	43.00 * 1,945,144 A	43.00 * 2,047,177 A
		INVESTMENT CAPITAL	GOV	3,000,000 C	3,000,000 C
2. LTG100 - Office of the Lieutenant Governor					
		OPERATING	LTG	24.00 * 1,899,404 A	24.00 * 3,541,971 A
3. BUF101 - Progmn, Planng, Analysis & Budgeting					
		OPERATING	BUF	62.00 * 27,338,682 A	62.00 * 35,094,649 A
			BUF	142,839 B	1,074,357 B
			BUF	93,544 N	381,052 N
			BUF	24,497 W	62,870 W
			BUF	2,767 X	5,916 X
4. PED103 - Statewide Plan and Coordination					
		OPERATING	PED	46.00 * 1,812,216 A	46.00 * 1,805,137 A
		INVESTMENT CAPITAL	PED	17,000,000 C	
5. GOV102 - Other Policy Development and Coordination					
		OPERATING	GOV	10.00 * 1,444,986 A	10.00 * 1,545,072 A
6. TAX102 - Income Assessment & Audit					
		OPERATING	TAX	123.00 * 2,697,490 A	123.00 * 2,695,045 A
7. TAX103 - Tax Collections Enforcement					
		OPERATING	TAX	75.00 * 1,486,772 A	74.00 * 1,441,044 A
8. TAX105 - Tax Services & Processing					
		OPERATING	TAX	89.00 * 2,768,976 A	89.00 * 2,925,216 A

PROGRAM APPROPRIATIONS

STATE OF HAWAII

		APPROPRIATIONS			
ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
9. TAX107 - Supporting Services-Revenue Collection					
		OPERATING	TAX	40.00 * 2,312,022 A	40.00 * 2,395,255 A
10. AGS101 - Acct System Development & Maintenance					
		OPERATING	AGS	12.00 * 315,684 A	12.00 * 311,033 A
11. AGS102 - Expenditure Examination					
		OPERATING	AGS	23.00 * 774,485 A	23.00 * 750,775 A
12. AGS103 - Recording and Reporting					
		OPERATING	AGS	15.00 * 464,762 A	15.00 * 470,099 A
13. AGS104 - Internal Post Audit					
		OPERATING	AGS	19.00 * 963,016 A	19.00 * 1,003,688 A
14. BUF110 - Cash and Debt Management					
		OPERATING	BUF	17.00 * 246,576,300 A	17.00 * 253,202,274 A
			BUF	25,209 B	25,222 B
			BUF	5,000 U	5,000 U
15. ATG100 - Legal Services					
		OPERATING	ATG	118.00 * 7,380,975 A	138.00 * 7,978,351 A
			ATG	9.00 * 527,856 N	9.00 * 536,654 N
			ATG	26.00 * 1,435,857 U	30.00 * 1,545,198 U
16. BUF131 - Electronic Data Processing Services					
		OPERATING	BUF	212.00 * 8,381,410 A	217.00 * 8,425,243 A
			BUF	25.00 * 1,031,972 U	25.00 * 1,050,019 U
17. AGS111 - Records Management					
		OPERATING	AGS	24.00 * 475,252 A	24.00 * 458,802 A
18. PER102 - Work Force Attr, Select, Class & Effect					
		OPERATING	PER	90.00 * 2,697,999 A	96.00 * 11,099,413 A
			PER	1,275 B	1,355 B
			PER		1.00 *
					800,983 U

PROGRAM APPROPRIATIONS

STATE OF HAWAII

			APPROPRIATIONS		
ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
19. PER191 - Supporting Services-Personnel Services					
		OPERATING	PER	12.00 * 485,395 A	12.00 * 469,029 A
20. BUF141 - Retirement					
		OPERATING	BUF	25.38 * 139,469,644 A	25.38 * 128,627,626 A
			BUF	8.62 * 369,048 S	8.62 * 382,206 S
21. BUF142 - Group Life Insurance, Med, Hosp & Dntl Bnfits					
		OPERATING	BUF	11.00 * 473,269 A	11.00 * 490,678 A
22. LNR101 - Public Lands Management					
		OPERATING INVESTMENT CAPITAL	LNR LNR	34.00 * 966,237 A	34.00 * 1,183,949 A 190,000 C
23. AGS203 - Insurance Management					
		OPERATING	AGS AGS	2.00 * 11,203,241 A 1,492,189 U	3.00 * 1,307,322 A 800,900 U
24. AGS211 - Land Survey					
		OPERATING	AGS	28.00 * 726,267 A	28.00 * 694,994 A
25. AGS221 - Construction					
		OPERATING INVESTMENT CAPITAL	AGS AGS AGS PED	20.00 * 570,917 A 7,186,000 C 2,080,000 D 117,000 C	20.00 * 1,063,981 A 10,579,000 C
26. AGS231 - Custodial Services					
		OPERATING	AGS AGS	144.50 * 7,020,206 A 328,898 U	144.50 * 7,047,065 A 349,948 U
27. AGS232 - Grounds Maintenance					
		OPERATING	AGS	39.50 * 803,590 A	40.50 * 841,541 A
28. AGS233 - Building Repairs and Alterations					
		OPERATING	AGS	24.00 * 1,921,929 A	24.00 * 1,878,357 A

PROGRAM APPROPRIATIONS

STATE OF HAWAII

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
29.	AGS240	Central Purchasing			
		OPERATING	AGS	16.00 *	16.00 *
			AGS	313,864 A	312,993 A
				25,000 W	26,000 W
30.	AGS244	Surplus Property Management			
		OPERATING	AGS	73,000 A	
			AGS	5.00 *	5.00 *
				168,414 W	169,687 W
31.	AGS251	Motor Pool			
		OPERATING	AGS	8.50 *	8.50 *
				574,517 W	589,812 W
32.	AGS252	Parking Control			
		OPERATING	AGS	12.50 *	12.50 *
				1,090,051 W	1,075,144 W
33.	AGS263	Communication			
		OPERATING	AGS	19.00 *	19.00 *
			AGS	2,646,798 A	2,445,330 A
				1,709,857 U	1,933,594 U
34.	ATG801	Capitol Building Security			
		OPERATING	ATG	47.00 *	47.00 *
				918,135 A	927,478 A
35.	AGS301	Other State Buildings Security			
		OPERATING			
36.	AGS901	Genrl Adm Svcs - Accounting & General Svcs			
		OPERATING	AGS	42.00 *	42.00 *
				1,048,916 A	1,040,479 A
37.	SUB101	Grants in Aid to Counties			
		OPERATING	SUB	19,447,551 A	31,447,551 A
38.	SUB201	City & County of Honolulu			
		OPERATING			
39.	SUB301	County of Hawaii			
		OPERATING			
40.	SUB401	County of Maui			
		OPERATING			
41.	SUB501	County of Kauai			
		OPERATING			

SECTION 4. Part III, Act 300, Session Laws of Hawaii 1985, is amended:

- (1) By amending Section 4 to read:

"SECTION 4. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$500,000 in fiscal year 1985-86 and \$200,000 in fiscal year 1986-87 shall be used to increase the revolving fund of the Hawaii capital loan program."

- (2) By amending Section 5 to read:

"SECTION 5. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$1,000,000 in fiscal year 1985-86 and \$1,500,000 in fiscal year 1986-87 shall be provided to the Pacific International Center for High Technology Research (UOH 102); provided further that the department of planning and economic development shall expedite the transfer of funds; provided further that the funds shall be used for independent research in high technology and alternative energy utilization; provided further that the Pacific International Center for High Technology Research shall submit an expenditure plan to the legislature twenty days before the convening of the 1986 and the 1987 Regular Session."

- (3) By amending Section 6 to read:

"SECTION 6. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$750,000 in fiscal year 1985-86 and \$421,325 in fiscal year 1986-87 shall be used by the Hawaii Visitors Bureau for advertising in Asian and Pacific markets; provided further that \$250,000 in fiscal year 1985-86 and \$212,200 in fiscal year 1986-87 shall be used by the Hawaii Visitors Bureau for non personnel promotion and marketing in Asian and Pacific markets; provided further that \$525,000 in fiscal year 1985-86 and \$449,000 in fiscal year 1986-87 shall be used by the Hawaii Visitors Bureau for advertising in Western and other markets; provided further that \$100,000 in fiscal year 1985-86 and \$85,825 in fiscal year 1986-87 shall be used by the Hawaii Visitors Bureau for non personnel promotion and marketing in Western and other markets."

- (4) By adding a new Section to read:

"SECTION 6A. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$1,900,000 in fiscal year 1986-87 shall be used by the Hawaii Visitors Bureau for advertising and non personnel promotion in the Asian and Pacific, and western and other markets."

- (5) By adding a new Section to read:

"SECTION 6B. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$100,000 in fiscal year 1986-87 shall be used to promote Hilo Hawaii as a visitor destination to be administered by the tourism branch."

- (6) By adding a new Section to read:

"SECTION 6C. Provided that the department of planning and economic development shall submit, at the time the 1987-89 executive budget is submitted to the Legislature, an implementation plan for the direct assumption of responsibility for the award and administration of the Hawaii Visitors Bureau contract or contracts for tourism marketing services for the 1987-89 fiscal biennium."

- (7) By adding a new Section to read:

"SECTION 6D. Provided that the general funds appropriated for commerce and industry (PED 102), in fiscal years 1984-85 and 1985-86 which are expended by the Hawaii Visitors Bureau and the administration of the contract governing the expenditures shall be subject to an audit by the legislative auditor together with an audit of such programs and operations as the auditor may determine to be necessary to provide the Legislature with a report in the 1987 regular session of the propriety and appropriateness of the use of state funds by the Hawaii Visitors Bureau."

(8) By adding a new Section to read:

"SECTION 7A. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$220,400 in fiscal year 1986-87 shall be used by the Hawaii Visitors Bureau for the relocation of its Tokyo office; provided further that if these funds are not used for this purpose, then these funds shall be used by the Hawaii Visitors Bureau for advertising in Asian and Pacific markets."

(9) By amending Section 8 to read:

"SECTION 8. Provided that of the general fund appropriation for commerce and industry (PED 102), to be expended by the tourism branch, the sum of \$150,000 in fiscal year 1985-86 and \$150,000 in fiscal year 1986-87 shall be used for Aloha week festivities, and provided further that \$100,000 in fiscal year 1986-87 shall be used for promotion of Molokai as a visitor destination."

(10) By amending Section 10 to read:

"SECTION 10. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$60,000 in fiscal year 1985-86 and \$60,000 in fiscal year 1986-87 shall be used by the Hawaii Visitors Bureau to support sporting events; provided further that \$100,000 in fiscal year 1985-86 shall be used by the Hawaii Visitors Bureau for promotion of Molokai as a visitor destination."

(11) By adding a new Section to read:

"SECTION 12A. Provided that of the general fund appropriation to commerce and industry (PED 102), the sum of \$88,664 in fiscal year 1986-87 shall be used for the small business information service by the business development branch."

(12) By adding a new Section to read:

"SECTION 12B. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$50,000 in fiscal year 1986-87 shall be used for the small business procurement assistance program."

(13) By adding a new Section to read:

"SECTION 15A. Provided that of the general fund appropriation to commerce and industry (PED 102), the sum of \$61,875 in fiscal year 1986-87 shall be used by the high technology development corporation (HTDC) for the operations of the Hawaii ocean science and technology (HOST) park in Keahole."

(14) By adding a new Section to read:

"SECTION 15B. Provided that of the general fund appropriation to commerce and industry (PED 102), the sum of \$50,000 in fiscal year 1986-87

shall be used by the high technology development corporation to develop a teleport master plan for the State; provided further that the master plan shall be submitted to the legislature twenty days prior to the convening of the 1987 Regular Session."

(15) By adding a new Section to read:

"SECTION 16A. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$200,000 in fiscal year 1986-87 shall be used to establish a statewide marine resources inventory system."

(16) By amending Section 17 to read:

"SECTION 17. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$45,000 in fiscal year 1985-86 and \$45,000 in fiscal year 1986-87 shall be used for the promotion of fresh seafood from Hawaii."

(17) By adding a new Section to read:

"SECTION 21A. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$20,000 in fiscal year 1986-87 shall be used for the Molokai cooling plant's first year operating expenses."

(18) By adding a new Section to read:

"SECTION 21B. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$10,000 in fiscal year 1986-87 shall be used to conduct a feasibility study of international and local business activities to include state-owned sites for the operation of functions such as finance, marketing, trading, sales, and handling of goods."

(19) By adding a new Section to read:

"SECTION 21C. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$350,000 in fiscal year 1986-87 shall be expended by the business development branch to contract with the economic development boards or corporations of the counties for the non personnel promotion of economic development in Hawaii."

(20) By adding a new Section to read:

"SECTION 21D. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$24,000 in fiscal year 1986-87 shall be used for the fishing industry development on Molokai."

(21) By adding a new Section to read:

"SECTION 22A. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$50,000 in fiscal year 1986-87 shall be used to promote Hawaii in the film industry."

(22) By adding a new Section to read:

"SECTION 22B. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$20,000 in fiscal year 1986-87 shall be used for the "every swimmer a lifesaver" program."

(23) By adding a new Section to read:

"SECTION 24A. Provided that of the general fund appropriation to animal disease control (AGR 132), the sum of \$50,000 in fiscal year 1986-87

shall be used to grant relief to the Molokai cattle ranchers not meeting the criteria of the agricultural loan program."

(24) By amending Section 27 to read:

"SECTION 27. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$200,000 in fiscal year 1985-86 and \$200,000 in fiscal year 1986-87 shall be used for the promotion of pineapples; provided further that no funds shall be made available unless matched on a dollar-for-dollar basis by the pineapple industry."

(25) By amending Section 28 to read:

"SECTION 28. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$100,000 in fiscal year 1985-86 and \$100,000 in fiscal year 1986-87 shall be used for the promotion of papayas; provided further that no funds shall be made available unless matched on a dollar-for-dollar basis by private contributions."

(26) By adding a new Section to read:

"SECTION 29A. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$25,000 in fiscal year 1986-87 shall be used for the promotion of anthuriums; provided further that no funds shall be made available unless matched on a dollar-for-dollar basis by private contributions."

(27) By adding a new Section to read:

"SECTION 31A. Provided that of the general fund appropriation for general administration for agriculture (AGR 192), the sum of \$35,747 in fiscal year 1986-87 shall be used for staffing of the agriculture park program; provided further that the funding is contingent upon the transfer of the monitoring function of agriculture parks from the department of land and natural resources to the department of agriculture."

(28) By adding a new Section to read:

"SECTION 31B. Provided that of the general fund appropriation for energy development and management (PED 120), the sum of \$256,265 in fiscal year 1986-87 shall be used to operate the Natural Energy Laboratory of Hawaii; provided further that the Natural Energy Laboratory of Hawaii shall submit a fiscal year 1985-86 financial statement detailing the expenditure of all moneys received to the Legislature twenty days before the convening of the 1987 regular session."

(29) By adding a new Section to read:

"SECTION 31C. Provided that of the general fund appropriation for energy development and management (PED 120), the sum of \$100,000 in fiscal year 1986-87 shall be used for the planning and preparation to host the world hydrogen conference."

(30) By adding a new Section to read:

"SECTION 33A. Provided that of the general fund appropriation for general support for economic development (PED 142), the sum of \$90,000 in fiscal year 1986-87 shall be used to conduct departmental audits to meet requirements for federal funding; provided further that the funds shall not be

used if moneys appropriated in fiscal year 1985-86 for this purpose are encumbered."

(31) By adding a new Section to read:

"SECTION 33B. Provided that of the general fund appropriation for general support for economic development (PED 142), the sum of \$75,000 in fiscal year 1986-87 shall be used to automate the loan accounting system for the loan programs administered by the financial assistance branch."

(32) By adding a new Section to read:

"SECTION 34A. Provided that of the general fund appropriation for commission on employment and human resources (LBR 135), the sum of \$34,000 in fiscal year 1986-87 shall be provided for the establishment of a tourism training council."

(33) By adding a new Section to read:

"SECTION 35A. Provided that of the general fund appropriation for vocational rehabilitation (SOC 802), the sum of \$5,000 in fiscal year 1986-87 shall be used for interpreter services for the deaf."

(34) By adding a new Section to read:

"SECTION 37A. Provided that of the general fund appropriation for general administration (LBR 902), the sum of \$439,000 in fiscal year 1986-87 shall be used to continue the progressive neighborhoods program."

(35) By adding a new Section to read:

"SECTION 37B. Provided that of the general fund appropriation for general administration (LBR 902), the sum of \$86,825 in fiscal year 1986-87 shall be used for purchase of service in addition to purchase of service provided in Section 37; provided further that of the total appropriation for purchase of service for fiscal year 1986-87, the sum of \$40,047 shall be expended by the office of community service for the establishment of a bilingual access line; provided further that the department of labor and industrial relations shall give priority to services which support recent immigrants and refugees in accessing health, social, employment, and other services."

(36) By adding a new Section to read:

"SECTION 38A. Provided that of the special fund appropriation for air transportation facilities and services (TRN 195), the sum of \$17,145 in the fiscal year 1986-87 shall be used for one personnel management specialist whose position count shall be assigned to work force attraction selection, classification and effectiveness (PER 102), department of personnel services; provided further that the personnel management specialist shall assist the department of transportation in performing employment verification of persons hired by the airports division in compliance with FAA regulations."

(37) By amending Section 39 to read:

"SECTION 39. Provided that of the special fund appropriation for water transportation facilities (TRN 395), the sum of \$20,000 in fiscal year 1985-86 and \$67,000 in fiscal year 1986-87 shall be used to conduct marketing and promotion efforts for Hawaii's harbors, with special focus on Honolulu Harbor; provided that the department of transportation shall submit a progress report on

such efforts to the Legislature twenty days before the convening of the 1986 and 1987 regular session."

(38) By adding a new Section to read:

"SECTION 41A. Provided that of the general fund appropriation for aquatic resources (LNR 401), the sum of \$60,000 in fiscal year 1986-87 shall be used for a pilot project for developing artificial habitats for Hawaii's bottomfish using boulders and other objects; provided further that a report shall be submitted to the legislature not less than twenty days prior to the convening of the 1987 regular session."

(39) By amending the second Section 45 to read:

"SECTION 45A. Provided that of the general fund appropriation for land and natural resources-natural physical environment (LNR 906), the sum of \$65,900 in fiscal year 1985-86 shall be used to locate and possibly eradicate destructive non-native plants and animals."

(40) By adding a new Section to read:

"SECTION 50A. Provided that of the general fund appropriation for venereal disease (HTH 121), the sum of \$50,000 in fiscal year 1986-87 shall be used to contract for education services related to acquired immune deficiency syndrome (AIDS) for the high risk groups; provided further that a public health educator shall be used to coordinate AIDS and ARC (aids related condition) educational services to the high risk groups, the general public, and mass media; provided further that two epidemiological specialists and a microbiologist shall be made available for AIDS counseling and follow-up activities and to administer HTLV-III antibody testing."

(41) By adding a new Section to read:

"SECTION 50B. Provided that of the general fund appropriation for venereal disease (HTH 121), the sum of \$103,180 in fiscal year 1986-87, in addition to purchase of service provided in Section 50, shall be provided to the Life Foundation of Hawaii for purchase of service for AIDS counseling and education."

(42) By adding a new Section to read:

"SECTION 52A. Provided that of the general fund appropriation for other communicable diseases (HTH 131), the sum of \$21,600 in fiscal year 1986-87 shall be used for the purchase of the haemophilus influenzae type b vaccine."

(43) By adding a new section to read:

"SECTION 56A. Provided that of the general fund appropriation for emergency medical services (HTH 170), the sum of \$30,000 in fiscal year 1986-87 shall be used for the purchase of life support equipment at Princeville ambulance station; provided further that this shall be a one time appropriation with the sum of \$30,000 to be matched on a dollar-for-dollar basis by private contributions."

(44) By adding a new Section to read:

"SECTION 58A. Provided that of the general fund appropriation for school health services (HTH 191), the sum of \$113,156 in fiscal year 1986-87 shall be used for 6 temporary positions to be reinstated and that the department of health shall not reduce the level of services at Pohakea Campbell Orthopedi-

cally Handicapped and OHI Unit and at the Jefferson Orthopedic Unit; provided further that the department shall continue to assess the program's personnel needs and transfer and/or trade off positions accordingly."

(45) By adding a new Section to read:

"SECTION 59A. Provided that of the general fund appropriation for health care services (HTH 801), the sum of \$195,690 in fiscal year 1985-86 and \$206,189 in fiscal year 1986-87 shall be released for services on a fee basis after departmental review of the cost of all alternatives; provided further that the services on a fee basis contracts for MCH - Children and Youth shall be awarded to the most appropriate institution on the basis of the review."

(46) By adding a new Section to read:

"SECTION 59B. Provided that the health care services division (HTH 801), shall prepare a review of the rationale and feasibility of acute care services continuing as a major program component of the Waimanalo Maternal and Child Health/Children and Youth project; provided further that the department shall submit the review to the legislature twenty days prior to the convening of the 1987 regular session."

(47) By adding a new Section to read:

"SECTION 60A. Provided that of the general fund appropriation for Kohala hospital (HTH 214), the sum of \$58,000 in fiscal year 1986-87 shall be used for the purchase of an advanced life ambulance to service the community."

(48) By adding a new Section to read:

"SECTION 60B. Provided that of the general fund appropriation for Kauai Veterans Memorial Hospital (HTH 231), the sum of \$20,000 in fiscal year 1986-87 shall be used to purchase a new stake bed truck."

(49) By adding a new Section to read:

"SECTION 61A. Provided that of the general fund appropriation for community based services for mental health (HTH 401), the sum of \$210,000 in fiscal year 1986-87 shall be used for purchase of sexual assault crisis services from Kapiolani Women's and Children's Medical Center sex abuse treatment center, the sum of \$90,000, Women Helping Women, the sum of \$40,000, Hawaii Island YWCA, the sum of \$50,000, Kauai YWCA, the sum of \$30,000."

(50) By amending Section 62 to read:

"SECTION 62. Provided that of the general fund appropriation for identification, evaluation, and treatment for developmentally disabled (HTH 500), the sum of \$1,150,527 in fiscal year 1985-86 and \$1,276,880 in fiscal year 1986-87 shall be used for purchases of service."

(51) By adding a new Section to read:

"SECTION 62A. Provided that of the general fund appropriation for identification, evaluation and treatment for developmentally disabled (HTH 500), the sum of \$11,200 in fiscal year 1986-87 shall be used to purchase a computer and related equipment for client recordkeeping."

(52) By amending Section 65 to read:

"SECTION 65. Provided that of the general fund appropriation for Waimano training school and hospital (HTH 511), \$311,561 in fiscal year 1985-

86 and \$441,172 in fiscal year 1986-87 shall be used for purchases of service relating to home and community based services; provided further that the funds provided shall be expended to support accelerating the placement of Waimano training school and hospital patients in the community; provided further that the Waimano training school and hospital shall report on the progress of deinstitutionalization and the usage of the funds for in-community programs during the first six months of fiscal year 1985-86 and the plans for usage of the funds for the remainder of fiscal year 1985-86 and fiscal year 1986-87; provided further that the report shall be submitted to the legislature twenty days before the convening of the 1986 Regular Session."

(53) By adding a new Section to read:

"SECTION 65A. Provided that of the general fund appropriation for Waimano training school and hospital (HTH 511), the sum of \$934,400 in fiscal year 1986-87 shall be used as the State's share in obtaining medicaid funds to be used to continue and accelerate community placements into the small ICF-MR program according to the department of health's plan for deinstitutionalization.

Provided further that the excess funds resulting from the decrease in patient census at Waimano training school and hospital shall be lapsed into the general fund.

Provided further that a report on the deinstitutionalization progress and the usage of funds shall be made and shall include but not be limited to:

- (1) The number of patients placed and to be placed into the ICF-MR programs;
- (2) Actions taken to decrease current expenses as a result of reduced patient census at Waimano; and
- (3) Savings incurred and projected as a result of reduced patient census at Waimano.

Provided further that this progress report shall be submitted to the legislature not less than twenty days prior to the convening of the 1987 regular session.

Provided further that a final report, including a breakdown of the funds lapsed into the general fund shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session."

(54) By adding a new Section to read:

"SECTION 65B. Provided that Waimano training school and hospital (HTH 511) shall assess their needs regarding the deinstitutionalization of patients and a 5 year program plan shall be made and shall include but not be limited to:

- (1) Projected patient census and community placements at Waimano training school and hospital;
- (2) Projected personnel requirements and plans for staff reductions;
- (3) Operational and facility consolidation; and
- (4) Projected expenditures and savings to be incurred.

Provided further that a report shall be submitted twenty days prior to the convening of the 1987 regular session; provided further that the state council on developmental disabilities shall review the report and submit its comments to the legislature prior to February 1, 1987."

(55) By adding a new Section to read:

"SECTION 66B. Provided that of the general fund appropriation for vector control (HTH 601), the sum of \$50,000 in fiscal year 1986-87 shall be used to establish a rodent control program for the county of Kauai."

(56) By adding a new Section to read:

"SECTION 69A. Provided that of the general fund appropriation for laboratory services (HTH 901), three position counts and the sum of \$58,516 in fiscal year 1986-87 shall be used to reopen four manually operated state and local air monitoring stations (SLAMS), of which three will be on the island of Maui, and one in Hilo."

(57) By adding a new Section to read:

"SECTION 78A. Provided that of the general fund appropriation for general administration (HTH 907), the sum of \$20,000 in fiscal year 1986-87 shall be used for a feasibility study on microfilming medical records; provided further that the study shall be submitted to the legislature twenty days before the convening of the 1987 regular session."

(58) By adding a new Section to read:

"SECTION 78B. Provided that of the general fund appropriation for general administration (HTH 907), the sum of \$642,589 in fiscal year 1986-87 shall be used for purchase of service; provided further that the department of health shall give priority to preventive treatment services in child abuse and neglect, spouse abuse, teenage pregnancy support services, mental health, and substance abuse."

(59) By adding a new Section to read:

"SECTION 78C. Provided that of the general fund appropriation for general administration (HTH 907), the sum of \$110,000 in fiscal year 1986-87 in addition to purchase of services in Section 75 shall be for purchases of service for the Hawaii Medical Association, Hawaii Cancer Commission for cancer research application, regarding Interlukin 2."

(60) By amending Section 79 to read:

"SECTION 79. Provided that the department of health is authorized to trade off, transfer, or establish positions within the existing authorized position counts for the purpose of maximizing the utilization of personnel resources and staff productivity.

Provided further that the department of health shall report twenty days prior to the opening of the 1987 regular session of the legislature on (1) the status of all positions provided for in this Act; (2) the status and number of temporary positions authorized by the director through delegated gubernatorial authority for the fiscal years 1985-86 and 1986-87 by year; and (3) the action plans employed by the department to correct deficiencies in such areas as staff utilization, staffing patterns, and other external forces limiting programs efficiencies for both general fund and special fund positions.

Provided further that if any of the newly approved positions created by trade off, transfer, or establishment by the department within the existing authorized position counts are not filled by the end of the 1986-87 fiscal year, the position count and funds authorized for such positions shall lapse.

Provided further that the department of health shall present to the legislature by January 1, 1987, (1) a plan for all reorganizations, if any, within which the aforementioned new positions shall be placed, (2) an explanation of the advantages of the reorganizations, and (3) a plan indicating how positions

are to be traded off, transferred, or established within the provisions of this Act."

(61) By amending Section 80 to read:

"SECTION 80. Provided that of the general fund appropriation for private hospitals and medical services (SUB 601), the sum of \$500,000 in fiscal year 1985-86 and \$750,000 in fiscal year 1986-87 shall be used to subsidize operations at Molokai general hospital; provided further that of the appropriated amounts to Molokai general hospital, \$145,568 in fiscal year 1985-86 and \$122,884 in fiscal year 1986-87 shall be released contingent on the loss of revenues due to medicaid/medicare prospective payment system shortages; provided further that of the general fund appropriation, the sum of \$289,777 in fiscal year 1985-86 and \$308,323 in fiscal year 1986-87 shall be used to subsidize operations at Waianae coast comprehensive health center - emergency room; provided further that of the general fund appropriation, the sum of \$172,382 in fiscal year 1985-86 and \$128,720 in fiscal year 1986-87 shall be released to Kahuku hospital contingent on the loss of revenues due to medicaid/medicare prospective payment system shortages."

(62) By adding a new section to read:

"SECTION 80A. Provided that of the general fund appropriation for emergency medical services (SUB 601), the sum of \$72,000 in fiscal year 1986-87 in addition to the sum provided for in Section 80 shall be used to expand Waianae coast comprehensive health center to a 24 hours a day, 365 days a year emergency facility."

(63) By adding a new Section to read:

"SECTION 85A. Provided that the department of social services and housing (DSSH) shall promulgate rules pursuant to chapter 91, Hawaii Revised Statutes, to increase the single per patient rate for the early prevention and screening diagnostic treatment (EPSDT) for children as an incentive for greater physician participation. Provided further that of the general fund appropriation for health care payments (SOC 230), the sum of \$200,000 in fiscal year 1986-87 shall be used to fund the increase of the single per patient rate for EPSDT; provided further that these funds shall be matched by federal funds."

(64) By amending Section 86 to read:

"SECTION 86. Provided that of the general fund appropriation for eligibility determination (SOC 236), the sum of \$617,289 in fiscal year 1985-86 and the sum of \$331,680 in fiscal year 1986-87 shall be used for the Hawaii automated welfare information system (HAWIS); provided further that the allotment of these funds shall be dependent upon the department of social services and housing receiving formal approval of its advanced planning document from the federal department of health and human services."

(65) By adding a new Section to read:

"SECTION 90A. Provided that of the general fund appropriation for planning, program development and coordination services for the elderly (GOV 602), the sum of \$194,470 in fiscal year 1986-87 in addition to the purchase of services in section 90 shall be used for purchase of service in addition to purchase of service provided in Section 90; provided further that the executive office on aging shall give priority to services such as housing support to the frail elderly, alzheimers respite care as well as other elderly support services."

(66) By adding a new Section to read:

"SECTION 90B. Provided that of the general fund appropriation for planning, program development and coordination of services for elderly (GOV 602), the sum of \$5,000 in fiscal year 1986-87 shall be used for the printing and distribution of the essay by Leon Edel entitled The Artist in Old Age."

(67) By adding a new Section to read:

"SECTION 93A. Provided that of the general fund appropriation for general support for public welfare (SOC 903), \$50,000 in fiscal year 1986-87 shall be used for a master plan to establish a single access system for long-term care services in Hawaii; provided further that the master plan shall include projected cost-savings to the State; provided further that the department of social services and housing shall submit the master plan to the legislature twenty days before the convening of the 1987 regular session."

(68) By adding a new Section to read:

"SECTION 93B. Provided that of the general fund appropriation for general support for public welfare (SOC 903), the sum of \$24,252 in fiscal year 1986-87 shall be used for one position to coordinate the third party liability program."

(69) By adding a new Section to read:

"SECTION 95A. Provided that of the general fund appropriation for general administration (DSSH) (SOC 904), the sum of \$506,789 in fiscal year 1986-87 shall be used for purchase of service; provided further that the department of social services and housing shall give priority to services in early intervention and treatment of child abuse and neglect, spouse abuse, and alternatives to incarceration."

(70) By amending Section 96 to read:

"SECTION 96. Provided that the amounts shown for regular instruction (EDN 105) are intended for student enrollment projections of 165,720 for fiscal year 1985-86 and 165,777 for fiscal year 1986-87."

(71) By adding a new Section to read:

"SECTION 96B. Provided that of the general fund appropriation for regular instruction (EDN 105) and for physical plant operations and maintenance - AGS (AGS 807), the sums of \$20,000,000 and \$11,000,000, respectively, for fiscal year 1986-87 shall be expended only for contractual projects to repair and maintain school facilities."

(72) By amending Section 98 to read:

"SECTION 98. Provided that of the general fund appropriation for other regular instruction (EDN 106), \$2,863,862 in fiscal year 1985-86 and \$2,755,010 in fiscal year 1986-87 shall be used for the early provision for school success program to aid 13,640 kindergarten students in the development of basic skills and life skills; provided further that in fiscal year 1986-87, the 100 support teachers in the program shall provide direct services to students identified as having learning difficulties in kindergarten classes throughout the State; provided further that the teachers in grades K-3 may receive in-service training; provided further that the department shall submit an evaluation of this program to the legislature at least twenty days before the convening of the 1987 regular session."

(73) By amending Section 101 to read:

"SECTION 101. Provided that of the general fund appropriation to other regular instruction programs (EDN 106), the sum of \$15,894,085 in fiscal year 1985-86 and \$15,905,094 in fiscal year 1986-87 shall be used for the school priority fund; and provided further that the 482 teachers and 33 educational assistants instructional resource augmentation (IRA) positions may be utilized for students in grades seven and eight, at the discretion of the district superintendents, when feasible."

(74) By adding a new Section to read:

"SECTION 102A. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$150,000 in fiscal year 1986-87 shall be expended for strengthening Pacific area concentration in education."

(75) By adding a new Section to read:

"SECTION 102B. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$29,346 in fiscal year 1986-87 shall be expended on salaries for two additional temporary district resource teachers in the Hawaiian studies program."

(76) By amending Section 103 to read:

"SECTION 103. Provided that of the general fund appropriation for special education (EDN 107), the sum of \$491,242 and twenty-one teacher and twenty-one educational assistant temporary positions in fiscal year 1985-86 and \$1,445,886 and fifty-four teacher and seventy-five educational assistant temporary positions in fiscal year 1986-87 shall be deployed to the schools to meet the most critical needs for supplemental instructional resources in special education; provided further that the positions may be used to provide consultation to regular education teachers serving mainstreamed special education students, provide support to special education teachers in fulfilling program requirements, and provide special education instruction to address problems relating to class scheduling; provided further that the educational assistant positions shall be deployed to the elementary schools, and the teacher positions shall be deployed to the secondary schools, unless otherwise redeployed subject to approval by the superintendent."

(77) By adding a new Section to read:

"SECTION 105A. Provided that of the general fund appropriation for school administration (EDN 203), the sum of \$43,409 in fiscal year 1986-87 shall be expended for a principal and a school administrative services assistant for Kealahou Intermediate School in the Hawaii District."

(78) By adding a new Section to read:

"SECTION 105B. Provided that of the general fund appropriation for instructional media (EDN 204), the sum of \$19,079 for fiscal year 1986-87 shall be expended for a librarian for Kealahou Intermediate School in the Hawaii District."

(79) By adding a new Section to read:

"Section 106A. Provided that the department of education is authorized to implement the reorganization plan as approved by the governor including the five (full-time equivalent (FTE)) permanent general fund positions of which three (FTE) are assigned to instructional development (EDN 205), one (FTE) to

state administration (EDN 303), and one (FTE) to district administration (EDN 304)."

(80) By adding a new Section to read:

"SECTION 109A. Provided that of the general fund appropriation for student activities (EDN 207), the sum of \$24,273 in fiscal year 1986-87 shall be expended for one Educational Specialist II (athletics program) for the Maui district."

(81) By adding a new Section to read:

"SECTION 109B. Provided that if appropriations in school activities (EDN 207) are used to provide student activity coordinators, the coordinators shall serve the needs of high school students exclusively; provided further that any full-time equivalent position funded for a school by such appropriations may be filled by two half-time student activity coordinators upon approval by the school principal and district superintendent."

(82) By adding a new Section to read:

"SECTION 109C. Provided that the board of education shall develop and implement a plan with standards for disbursement of non-athletic extra-curricular program funds; provided further that the board shall submit a report on the requested plan to the legislature at least twenty days prior to the convening of the 1987 regular session."

(83) By adding a new Section to read:

"SECTION 109D. Provided that of the general fund appropriation for student activities (EDN 207), the sum of \$7,000 in fiscal year 1986-87 shall be used for the Maui Intermediate School Leadership Council."

(84) By adding a new Section to read:

"SECTION 109E. Provided that of the general fund appropriation for student activities (EDN 207), the sum of \$10,000 in fiscal year 1986-87 shall be used for the Hawaii Association of the Future Homemakers of America to defray travel expenses."

(85) By amending Section 112 to read:

"SECTION 112. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$153,157 in fiscal year 1985-86 and \$155,236 in fiscal year 1986-87 shall be used to finance the operations of the board of education; provided further that the board shall not expend funds in excess of the amounts provided in this section nor shall the board transfer or authorize the transfer of funds from other education programs to pay for expenditures in excess of the amounts provided in this section; provided further that any expenditure in excess of the amounts provided in this section shall be in direct contravention of legislative intent."

(86) By adding a new Section to read:

"SECTION 112A. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$11,210 in fiscal year 1986-87 shall be used for purchase of service; provided further that the department of education shall give priority to programs directly serving students."

(87) By adding a new section to read:

"SECTION 113A. Provided that of the general fund appropriation for physical plant operations and maintenance (EDN 307), the sum of \$21,798 in fiscal year 1986-87 shall be expended for custodians at Kalama Intermediate School."

(88) By amending Section 114 to read:

"SECTION 114. Provided that for physical plant operations and maintenance (AGS 807), for fiscal year 1986-87, the department of education shall provide a report of expenditures during fiscal year 1986-87 for furniture on a school-by-school basis; provided further that for fiscal biennium 1987-89, the department shall report in detail both furniture deficiencies and surpluses on a school-by-school basis and determine the net amount of furniture needed and the associated expenditures therefor required and submit the report to the legislature at least twenty days prior to the convening of the 1987 regular session."

(89) By adding a new Section to read:

"SECTION 114A. Provided that of the general fund appropriation for student transportation (AGS 808), the sum of \$478,750 in fiscal year 1986-87 shall be expended for three special education buses on Oahu and for additional bus aides statewide."

(90) By adding a new Section to read:

"SECTION 114B. Provided that of the general fund appropriation for public libraries (EDN 407), the sum of \$70,000 in fiscal year 1986-87 shall be expended for contractual security services; provided further that the department shall submit an evaluation of library security services to the legislature at least twenty days before the convening of the 1987 regular session."

(91) By adding a new Section to read:

"SECTION 114C. Provided that of the general fund appropriation for public libraries (EDN 407), the sum of \$40,000 in fiscal year 1986-87 shall be expended for a substitute library pool."

(92) By adding a new Section to read:

"SECTION 114D. Provided that of the general fund appropriation for public libraries (EDN 407), the sum of \$43,333 in fiscal year 1986-87 shall be expended for librarians at the Salt Lake/Moanalua library."

(93) By amending Section 117 to read:

"SECTION 117. Provided that of the general fund appropriation for instruction, University of Hawaii, Manoa (UOH 101), the sum of \$125,000 in fiscal year 1985-86 and \$325,000 in fiscal year 1986-87 shall be expended to increase graduate assistant stipends 5% effective July 1, 1985, and an additional 8% effective July 1, 1986."

(94) By adding a new Section to read:

"SECTION 119A. Provided that of the general fund appropriation for instruction-University of Hawaii, Manoa (UOH 101), three position counts and the sum of \$41,373 in fiscal year 1986-87 shall be used to provide graduate assistants for various programs."

(95) By adding a new Section to read:

"SECTION 119B. Provided that of the general fund appropriation for instruction-University of Hawaii, Manoa (UOH 101), the sum of \$400,000 in fiscal year 1986-87 shall be used by the school of medicine for the purchase of medical malpractice insurance."

(96) By adding a new Section to read:

"SECTION 119C. Provided that of the general fund appropriation for instruction, University of Hawaii, Manoa (UOH 101), two positions and the sum of \$162,499 in fiscal year 1986-87 shall be used to establish a foreign language interpretation/translation center."

(97) By adding a new Section to read:

"SECTION 125A. Provided that of the general fund appropriation for organized research-University of Hawaii, Manoa (UOH 102), the sum of \$10,000 in fiscal year 1986-87 shall be used by the university committee on space to explore the State's potential as a space center and the university's and the State's role in the proposed international space year."

(98) By adding a new Section to read:

"SECTION 125B. Provided that of the general fund appropriation for organized research, University of Hawaii, Manoa (UOH 102), the sum of \$200,000 in fiscal year 1986-87 shall be expended for the Hawaiian Ocean Experiment and the Center for Ocean Resources Technology Projects."

(99) By amending Section 129 to read:

"SECTION 129. Provided that the general fund appropriations for the PPB level IV academic support programs of the University of Hawaii include the following amounts to be expended for library automation:

	FY 1985-86	FY 1986-87
UOH 104	\$954,265	\$679,865
UOH 214	\$ 0	\$266,510
UOH 303	\$ 82,875	\$ 59,000
UOH 313	\$ 82,875	\$ 59,000
UOH 323	\$ 82,875	\$ 59,000
UOH 333	\$ 61,850	\$ 28,900
UOH 503	\$ 61,850	\$ 28,900
UOH 603	\$ 61,850	\$ 28,900"

(100) By adding a new Section to read:

"SECTION 131A. Provided that of the general fund appropriation for academic support, University of Hawaii, Manoa (UOH 104), 3.50 position counts and the sum of \$101,000 in fiscal year 1986-87 shall be used for Asian and Pacific library specialists."

(101) By adding a new Section to read:

"SECTION 134A. Provided that of the general fund appropriation for student services, University of Hawaii, Manoa (UOH 105), the sum of \$327,280 in fiscal year 1986-87 shall be used for additional software and equipment to implement the computerized student registration system which shall be on-line by the fall 1986 semester; provided further that the university shall submit a report to the legislature twenty days before the convening of the 1987 regular session."

(102) By adding a new Section to read:

"SECTION 134B. Provided that of the general fund appropriation for student services, University of Hawaii, Manoa (UOH 105), the sum of \$55,000 in fiscal year 1986-87 shall be expended for a staff position for academic support services for minority students to help in their adjustment to university life; provided further that support services shall include, but need not be limited to: (1) providing information about the available array of academic programs, libraries, and freshman seminars; (2) assistance with selecting courses and planning a class schedule, making arrangements for housing, and applying for financial aid; and (3) study skills assistance which may be made available to both currently enrolled students and potential recruits."

(103) By amending Section 135 to read:

"SECTION 135. Provided that of the general fund appropriations for PPB level IV institutional support programs of the University of Hawaii the sum of \$7,609,078 shall be used only for electricity costs as follows:

	FY 1985-86	FY 1986-87
UOH 106	\$6,217,062	\$5,223,824
	64,761,067 Kwh	69,189,727 Kwh
	\$.0960	\$.0755
UOH 216	\$781,963	\$781,058
	5,374,317 Kwh	6,106,783 Kwh
	\$.1455	\$.1279
UOH 305	\$512,356	\$387,565
	4,463,027 Kwh	4,306,278 Kwh
	\$.1148	\$.0900
UOH 315	\$283,718	\$292,559
	2,319,850 Kwh	3,047,490 Kwh
	\$.1223	\$.0960
UOH 325	\$382,422	\$370,375
	3,279,778 Kwh	3,999,729 Kwh
	\$.1166	\$.0926
UOH 335	\$59,854	\$54,369
	551,145 Kwh	639,640 Kwh
	\$.1086	\$.0850
UOH 505	\$189,159	\$177,603
	1,246,105 Kwh	1,305,901 Kwh
	\$.1518	\$.1360
UOH 605	\$325,630	\$297,534
	1,754,473 Kwh	1,854,948 Kwh
	\$.1856	\$.1604
UOH 706	\$27,967	\$24,191
	217,475 Kwh	212,387 Kwh
	\$.1286	\$.1139

As used in this section "Kwh" means kilowatt hours. Provided further that the electricity rates and kilowatt usage as identified herein shall be used as a reference base by the university and the legislature in determining any deficits in electricity."

(104) By adding a new Section to read:

“SECTION 141A. Provided that of the general fund appropriation for instruction-University of Hawaii, Hilo (UOH 211), three position counts and the sum of \$50,625 in fiscal year 1986-87 shall be used to provide additional instructors for the University of Hawaii, Hilo education program.”

(105) By adding a new Section to read:

“SECTION 141B. Provided that of the general fund appropriation for instruction-University of Hawaii, Hilo (UOH 211), five position counts and the sum of \$161,300 in fiscal year 1986-87 shall be used to provide additional instructors and related expenses and equipment to support West Hawaii programs.”

(106) By adding a new Section to read:

“SECTION 142A. Provided that of the general fund appropriation for institutional support-Leeward community college (UOH 325), the sum of \$163,000 in fiscal year 1986-87 shall be used to refloor the library, classrooms, and offices.”

(107) By adding a new Section to read:

“SECTION 143A. Provided that of the general fund appropriation for academic support-Maui community college (UOH 503), one position count and the sum of \$145,000 in fiscal year 1986-87 shall be used for the construction and operation of the Maui community college microwave system.”

(108) By adding a new Section to read:

“SECTION 143B. Provided that of the total appropriation in revolving funds for instruction-Kauai community college (UOH 601), one position count and the sum of \$14,999 in fiscal year 1986-87 shall be used to provide one educational specialist for the instructional food service program.”

(109) By adding a new Section to read:

“SECTION 143C. Provided that of the total appropriation in special funds for public service-Kauai community college (UOH 602), the sum of \$24,003 in fiscal year 1986-87 shall be used to increase the program's course offerings and intercultural programs.”

(110) By adding a new Section to read:

“SECTION 144A. Provided that of the general fund appropriation for academic support - University of Hawaii, systemwide support (UOH 901), five positions and the sum of \$553,195 in fiscal year 1986-87 may be used to implement the PLATO computer based education (CBE) system.

Provided further that the university shall conduct a comprehensive study which shall include, but not be limited to, an evaluation of currently available computer based education systems to determine the most appropriate system for the university; provided further that the university shall use the funds and positions that are specified herein to implement the CBE system which proves to be the most superior based on the study; provided further that the university shall submit a report on the study and its findings and recommendations to the legislature twenty days prior to the convening of the 1987 regular session.”

(111) By adding a new Section to read:

"SECTION 145A. Provided that of the general fund appropriation for institutional support - University of Hawaii, systemwide support (UOH 903), the sum of \$125,000 in fiscal year 1986-87 shall be used for the Information and Communication Project to comply with the accreditation report."

(112) By adding a new Section to read:

"SECTION 145B. Provided that of the general fund appropriation for institutional support - University of Hawaii, systemwide support (UOH 903), the sum of \$50,000 in fiscal year 1986-87 shall be expended by the office of the vice president for university relations to acquire equipment."

(113) By adding a new Section to read:

"SECTION 145C. Provided that of the general fund appropriation for institutional support - University of Hawaii, systemwide support (UOH 903), two positions and the sum of \$26,205 in fiscal year 1986-87 shall be used for the central accounting office and the treasury office."

(114) By adding a new Section to read:

"SECTION 145D. Provided that the legislative auditor shall conduct an evaluation of the recent administrative reorganization of the University of Hawaii; provided further that the auditor shall submit a report on the auditor's findings and recommendations to the legislature twenty days prior to the convening of the 1987 regular session."

(115) By amending Section 152 to read:

"SECTION 152. Provided that of the general fund appropriation for aquaria (UOH 881), the sum of \$125,000 in fiscal year 1985-86 and \$137,700 in fiscal year 1986-87 shall be expended for the blue water marine laboratory program."

(116) By adding a new Section to read:

"SECTION 153A. Provided that of the general fund appropriation for the Hawaii public broadcasting (CCA 701), the sum of \$117,000 in fiscal year 1986-87 shall be provided for a permanent film and video archive."

(117) By adding a new Section to read:

"SECTION 154A. Provided that of the general fund appropriation for performing and visual arts events (AGS 881), the sum of \$55,408 in fiscal year 1986-87 shall be used for purchase of service in addition to purchase of service provided in Section 154; provided further that the state foundation for culture and the arts shall give priority to film and media production; youth symphony activities, and additional administrative costs incurred by certain organizations."

(118) By adding a new Section to read:

"SECTION 154B. Provided that of the general fund appropriation for performing and visual arts events (AGS 881) the following shall be provided in grants-in-aid in fiscal year 1986-87:

Hear Me O My People	\$50,000
Celebration of the Sakadas	\$25,000
Viagem Da Pioanela	\$25,000
Celebration of Chinese Arrival	\$25,000

Provided further that the moneys for the celebration of the Chinese arrival shall be used to establish a celebration commission and preliminary planning; provided further that the governor shall appoint such a commission."

(119) By adding a new Section to read:

"SECTION 177A. Provided that of the general fund appropriation for general administration-confinement (SOC 493), the sum of \$250,000 in fiscal year 1986-87 shall be used to implement a plan approved by the medical and mental health panel established in the Consent Decree (Spear vs. Ariyoshi); provided further that such plan shall be developed by the courts and corrections branch of the mental health division, department of health, and by the corrections division, department of social services and housing."

(120) By adding a new Section to read:

"SECTION 182A. Provided that of the general fund appropriation for banking services (CCA 104), the sum of \$40,000 in fiscal year 1986-87 shall be provided for training of state examiners."

(121) By amending Section 183 to read:

"SECTION 183. Provided that of the general fund appropriation for insurance services (CCA 106), the sum of \$250,000 in fiscal year 1985-86 and \$350,000 in fiscal year 1986-87 shall be used for litigation expenses; and provided further that: (1) the funds appropriated for litigation expenses shall not be used for any other purpose; (2) if the insurance commissioner is or shall be appointed a receiver (whether designated "receiver," "rehabilitator," "liquidator," "conservator," or other similar title) of an insurer, the term "litigation expenses" shall include, but not be limited to, one or more loans (on such terms and conditions as the commissioner and the court having jurisdiction over the receivership shall approve) to the insurance commissioner, acting as receiver, for litigation purposes; (3) all funds not expended or encumbered specifically for litigation expenses by June 30, 1987, shall lapse into the general fund; (4) the department of commerce and consumer affairs shall submit an accountability report on all expenses related to litigation to the legislature ten days after every quarter of the fiscal year 1985-86 and 1986-87; and (5) the department shall submit a report on the status of cases involving litigation to the legislature twenty days prior to the convening of the 1986 and 1987 regular session. "Litigation purposes," as used in this section, shall include, but not be limited to, payment of the fees and reimbursable expenses of attorneys, accountants, appraisers, and expert witnesses and litigation support costs."

(122) By adding a new Section to read:

"SECTION 184A. Provided that of the general fund appropriation for insurance services program (CCA 106), for fiscal year 1986-87 the sum of \$80,000 shall be used by the insurance commissioner for contracting actuarial services; provided further that the insurance division of the department of commerce and consumer affairs shall submit a report on all expenses incurred related to actuarial services to the legislature twenty days prior to the convening of the 1987 regular session."

(123) By adding a new Section to read:

"SECTION 185A. Provided that of the general fund appropriation for professional, vocational, and personal services (CCA 105), the sum of \$154,675 in fiscal year 1986-87 shall be used to repay funds garnished from the state treasury by the garnishee order issued in civil case no. 76-0455."

(124) By adding a new Section to read:

“SECTION 191A. Provided that of the general fund appropriation to the office of the governor (GOV 100), the sum of \$25,000 in fiscal year 1986-87 shall be used for the Pacific Islands development program annual assessment.”

(125) By amending Section 192 to read:

“SECTION 192. Provided that any reimbursements received by the office of the Lieutenant Governor (LTG 100) from the counties for county associated election costs for regularly scheduled elections in the fiscal biennium 1985-87 shall be deposited into the general fund.”

(126) By adding a new Section to read:

“SECTION 194A. Provided that of the general fund appropriation to the office of the lieutenant governor (LTG 100), the sum of \$275,000, in fiscal year 1986-87 shall be expended to conduct a special election if it is deemed necessary.”

(127) By adding a new Section to read:

“SECTION 195A. Provided that of the appropriations for program planning, analysis and budgeting (BUF 101), the sum of \$1,321,613 in general funds, the sum of \$219,267 in special funds, and the sum of \$8,411 in federal funds, in fiscal year 1986-87 shall be used for lump sum vacation payments for exempt employees affected by the change in administration pursuant to section 79-7, Hawaii Revised Statutes; provided further that such funds may be transferred and allotted to other appropriate program appropriations with the approval of the governor.”

(128) By adding a new Section to read:

“SECTION 195B. Provided that of the general fund appropriation for program planning, analysis and budgeting (BUF 101), the sum of \$1,000,000 in fiscal year 1986-87 shall be used to support continued implementation of departmental distributed information processing and information resource management (DIPIRM) plans.”

(129) By adding a new Section to read:

“SECTION 195C. Provided that of the general fund appropriation for program planning, analysis and budgeting (BUF 101), the sum of \$140,168 in fiscal year 1986-87 shall be expended to provide for additional health fund requirements due to unanticipated increases in active employee medical plan enrollments; provided further that such funds shall supplement the appropriations contained in Act 171, SLH 1985; Act 172, SLH 1985; and Act 134, SLH 1985.”

(130) By adding a new Section to read:

“SECTION 195D. Provided that of the general fund appropriation to the program planning, analysis and budgeting (BUF 101), the sum of \$25,000 in fiscal year 1986-87 shall be used to conduct a comprehensive study on the economic and revenue-generating aspects of the Aloha state bond program and a feasibility study of teletrack theater paramutual betting.”

(131) By amending Section 198 to read:

“SECTION 198. Provided that of the general fund appropriation for other policy development and coordination (GOV 102), the sum of \$60,000 in

fiscal year 1985-86 and \$60,000 in fiscal year 1986-87 shall be used for pesticide education programs for farmers; provided further that the funds shall be expended by the Governor's Agriculture coordinating committee."

(132) By amending Section 199 to read:

"SECTION 199. Provided that of the general fund appropriation for other policy development and coordination (GOV 102), the sum of \$83,500 in fiscal year 1985-86 and \$83,500 in fiscal year 1986-87 shall be used for research on spotted wilt disease; provided further that the sum of \$70,000 in fiscal year 1985-86 shall be used for research on fumigants and non-volatile chemicals for the control of nematodes; provided further that the sum of \$85,000 in fiscal year 1985-86 and \$85,000 in fiscal year 1986-87 shall be used for research on cultural and biological control measures to reduce nematode populations; provided further that the sum of \$5,000 in fiscal year 1985-86 and \$5,000 in fiscal year 1986-87 shall be used for research on the biological control of nematodes under greenhouse conditions; provided further that the sum of \$20,000 in fiscal year 1985-86 and \$20,000 in fiscal year 1986-87 shall be used to support the state farm fair."

(133) By adding a new Section to read:

"SECTION 199A. Provided that of the general fund appropriation for other policy development and coordination (GOV 102), the sum of \$40,300 in fiscal year 1986-87 shall be used for research on the anthurium blight and anthurium bleach; provided further that the sum of \$30,000 in fiscal year 1986-87 shall be provided for integrated pest management on tomatoes; provided further that the sum of \$75,000 in fiscal year 1986-87 shall be used to research non-volatile chemical compounds and their nematicidal efficiency and methods of application; provided further that the sum of \$30,000 in fiscal year 1986-87 shall be provided for the development of control measures for pest ants; provided further that the sum of \$25,000 in fiscal year 1986-87 shall be provided for the development of agricultural leadership in Hawaii."

(134) By adding a new Section to read:

"SECTION 199B. Provided that of the general fund appropriation for tax services and processing (TAX 105), the sum of \$224,129 in fiscal year 1986-87 shall be used to hire temporary personnel to support the comprehensive net income tax (CNIT) system."

(135) By adding a new Section to read:

"SECTION 200A. Provided that of the general fund appropriation for supporting services - revenue collection (TAX 107), the sum of \$3,000 in fiscal year 1986-87 shall be used for a member of the council on revenues and the departmental staff person assigned to assist the council as stated in section 37-111, Hawaii Revised Statutes, to attend the National Association of Tax Administrators workshop on revenue estimating."

(136) By amending Section 201 to read:

"SECTION 201. Provided that of the general fund appropriation for the cash and debt management program (BUF 110), \$75,000 in fiscal year 1985-86 and \$155,000 in fiscal year 1986-87 shall be used to meet requirements of the uniform disposition of unclaimed property program pursuant to Chapter 523A, Hawaii Revised Statutes; provided further that in the event such claims exceed the general fund appropriation for the respective fiscal year, the director of

finance with the approval of the governor is authorized to utilize savings as determined to be available from any other state program for the purpose of meeting deficits incurred by the department of budget and finance."

(137) By amending Section 203 to read:

"SECTION 203. Provided that of the general fund appropriation for legal services (ATG 100), \$1,621,727 in fiscal year 1985-1986 and \$1,700,000 in fiscal year 1986-87 shall be used to pay for litigation expenses as defined by the attorney general's "Administrative Policies Regarding Accountability for Litigation Expenses and the Hire of Special Deputies." These expenses shall include all costs reasonably related to the investigation, prosecution, or defense of a court action or suit to which the State of Hawaii is or is anticipated to be named a party. Litigation expenses shall include but not be limited to travel expenses incurred by the attorney general's staff, special deputies, consultants, experts, or witnesses; depositions; court reporting services; transcripts; experts' compensation, transportation, hotel, room and board, air and ground transportation, telephone calls, testing, preparation of exhibits; preparation of demonstrative exhibits; investigations; court fees; and bonds, such as supersedeas bonds.

Provided further that the funds appropriated for litigation expenses and the hire of special deputies shall not be used for any other purpose; and provided further that the department of the attorney general shall not bill any state department, agency, or program that is general funded for litigation expenses or for the hire of special deputies.

Provided further that all expenses for the hire of special deputies incurred by general funded state departments, agencies, and programs, exclusive of boards and commissions, shall be paid for by the attorney general through the litigation fund on a non-reimbursable basis.

Provided further that the attorney general shall continue to submit an accountability report on all expenses incurred for litigation expenses and the hire of special deputies to the legislature ten days after each quarter of the fiscal year; provided further that the accountability report shall identify litigation and hire of special deputies expenses incurred by any general funded and any non-general funded state department, agency, or program; provided further that the report shall reflect the total amount expended for litigation expenses and for the hire of special deputies by program ID and organization code; and provided further that if such reports exhibit sound planning, control, and accountability based on the administrative policies established by the attorney general, the legislature shall appropriate a justifiable amount to the department of the attorney general exclusively for litigation expenses and the hire of special deputies.

Provided further that all funds appropriated in fiscal year 1985-86 and fiscal year 1986-87 not expended or encumbered specifically for litigation expenses or the hire of special deputies by June 30, 1986 in the fiscal year 1985-86 and by June 30, 1987 in the fiscal year 1986-87, respectively, shall lapse into the general fund."

(138) By amending Section 205 to read:

"SECTION 205. Provided that of the general fund appropriation for legal services (ATG 100), the sum of \$417,804 in fiscal year 1985-86 and \$412,211 in fiscal year 1986-87 shall be used for the victim/witness assistance program to be distributed to the counties in the following manner, City and County of Honolulu-\$150,000, Hawaii County-\$90,000, Kauai County-\$75,000, and Maui County-\$75,000.

Provided further that of the general fund appropriation for the Honolulu victim/witness assistance program, the sum of \$17,804 in fiscal year 1985-86 and \$22,211 in fiscal year 1986-87 shall be used for an additional victim/witness counselor and associated costs.

Provided further the sums appropriated by the State shall be contingent upon the respective counties providing a minimum of twenty-five per cent matching funds."

(139) By adding a new Section to read:

"SECTION 207C. Provided that the department of the attorney general shall provide detailed, itemized billings for any non-general funded state department, agency, or program; and provided further that the billings shall reflect the hourly billing and litigation expenses, as defined in Section 203, by case incurred by any deputy attorney general or special deputy on the reimbursable basis."

(140) By adding a new Section to read:

"SECTION 208A. Provided that of the general fund appropriation for electronic data processing services (BUF 131), the sum of \$43,200 in fiscal year 1986-87 shall be used to provide stipends for 8 student intern positions to establish a cooperative education/electronic data processing division intern program with various local universities and colleges."

(141) By adding a new Section to read:

"SECTION 209A. Provided that of the general fund appropriation for work force attraction, selection, classification and effectiveness (PER 102), the sum of \$8,434,827 in fiscal year 1986-87 shall be used for the payment of workers' compensation claims."

(142) By adding a new Section to read:

"SECTION 209B. Provided that the department of personnel services shall evaluate the workers' compensation unit's activities in workforce attraction, selection, classification, and effectiveness (PER 102); provided further the unit's goals and objectives shall be evaluated and assessed; provided further that the department shall submit a report of its findings and recommendations to the legislature at least twenty days before the convening of the 1987 regular session."

(143) By adding a new Section to read:

"SECTION 209C. Provided that of the general fund appropriation to the retirement program (BUF 141), the sum of \$978,747 in fiscal year 1986-87 shall be expended for additional medicare contributions for state employees who are not covered by Social Security."

(144) By adding a new Section to read:

"SECTION 210A. Provided that of the general fund appropriation for public lands management (LNR 101), the sum of \$306,000 in fiscal year 1986-87 shall be used to purchase property adjacent to Kawaiui Marsh (TMK No. 4-2-17-20)."

(145) By adding a new Section to read:

"SECTION 210B. Provided that of the general fund appropriation for public lands management (LNR 101), the sum of \$15,000 in fiscal year 1986-87

shall be used for the appraisal of those lands in Waipio Valley, Hawaii, owned by the Bishop Museum."

(146) By adding a new Section to read:

"SECTION 214A. Provided that of the general fund appropriation for grants-in-aid to counties (SUB 101), the sum of \$12,000,000 in fiscal year 1986-87 shall be for the purpose of improvements to infrastructure and/or tourism-related activities; provided further that the funds shall be apportioned as follows:

City and County of Honolulu	\$5,172,000
County of Maui	\$2,856,000
County of Hawaii	\$2,100,000
County of Kauai	\$1,872,000

Provided further that these apportionments shall be allotted on a quarterly basis beginning July 1, 1986."

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the following sums:

- (1) \$5,000,000¹ in fiscal year 1986-87 which is a special appropriation within the meaning of section -13 of section 11 of Act 296, Session Laws of Hawaii 1985, to be paid into the Hawaii workers' compensation state fund after December 31, 1986.
- (2) \$200,000 in fiscal year 1986-87 to be used by the department of budget and finance to continue to develop a detailed implementation plan of the Hawaii workers' compensation state fund.

SECTION 6. Part IV, Section 136, Act 300, Session Laws of Hawaii 1985, is amended to read as follows:

"SECTION 222. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED. The sums of money appropriated or authorized in Part II of this Act for capital investment shall be expended for the projects listed below. The appropriations accounting by the department of accounting and general services shall be made based on the projects listed in this section. Several related or similar projects may be combined into a single project, if such combination is advantageous or convenient for implementation; provided that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.)"

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

				APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F

Economic Development

PED102 - Commerce and Industry

1. ORB-1 Hawaiian Ocean Awareness Center - Sea Life Park Facility

Design and construction of a combined Hawaiian Ocean Awareness Center-Sea Life Park at Sea Life Park to include submerged observatories for ocean exhibits and displays in the actual marine environment. Funds appropriated under Act 285, item H.4A. may be used for this purpose. Design and construction shall be preceded by an implementation plan which specifies the financial, management, and operating arrangements or purchase agreed to by Sea Life Park and the State of Hawaii.

LAND	100	2,500
DESIGN	4,990	1,000
CONSTRUCTION	10	6,750
EQUIPMENT	400	250
TOTAL FUNDING	PED	A 3,000 A
		5,500 C 7,500 C

1A. BDB-1 Irradiation Facility, Hilo, Hawaii

Planning, design, construction and equipment for a cobalt or cesium irradiation facility to assist activities including agriculture, aquaculture, manufacturing and processing.

PLANS	100
DESIGN	100
TOTAL FUNDING	PED C 200 C

1B. FIB-1 Filming Facility, Oahu

Land acquisition of approximately 30 acres and plans, design and construction of a filming facility including on-site infrastructure, roadway, parking and building modified for a film studio.

PLANS	50
LAND	2,950
TOTAL FUNDING	PED C 3,000 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
2.	HTDC-1	Hawaii Ocean Science and Technology Park Keahole, Kona, Hawaii			
		High-Technology Park site for use by aquaculture and related ocean science industries. Approximately 471 acres of state lands located next to Keahole Airport and NELH. User lot sizes of 5 to 25 acres. Construction to include basic infrastructure, utilities, grading, widening of existing access, and construction of internal roads. Park will assist developing industries, generate jobs and state tax revenues.			
		PLANS		250	26
		LAND		1	1
		DESIGN		500	100
		CONSTRUCTION		6,000	2,192
		EQUIPMENT		1	1
		TOTAL FUNDING	PED	6,752 C	2,320 C
3.	ORB-2	Hyperbaric Treatment Center, Oahu			
		Modification of "Good Samaritan" hyperbaric treatment chamber and support facilities at Kewalo Basin.			
		CONSTRUCTION		250	
		TOTAL FUNDING	AGS	250 C	C
3A.	HTDC-2	Manoa Innovation Center			
		Future home of RCUH, PICHTR, and HTDC's innovation center, administrative, laboratory space, adjoining two story structures - concrete frame with concrete blocks.			
		PLANS			49
		TOTAL FUNDING	PED	C	49 C
4.	NEL04	Natural Energy Laboratory of Hawaii			
		Design and construction for on- and off-site improvements.			
		PLANS		75	25
		DESIGN		25	25
		CONSTRUCTION		100	100
		EQUIPMENT		100	100
		TOTAL FUNDING	PED	300 C	250 C
4A.	Natural Energy Laboratory of Hawaii	Keahole, Kona, Hawaii			
		Design and construction for a back-up deep sea water pipeline and related infrastructure for NELH.			
		DESIGN			100
		CONSTRUCTION			900
		TOTAL FUNDING	PED	C	1,000 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F

PED107 - Foreign Trade Zone Services

5. FTZ-1 Renovation of Pier 2 Facilities for Expansion of Foreign-Trade Zone Activities

Renovation of structures and grounds at Pier 2 to provide for the expansion of FTZ activities including manufacturing, assembly, transshipment, storage and warehousing of goods and merchandise. Improvements include manufacturing and warehousing areas, roll-up doors, security alarm and fences, utilities, and other FTZ requirements.

DESIGN			120	
CONSTRUCTION			836	
EQUIPMENT			44	
TOTAL FUNDING	PED		1,000 D	D

6. FTZ-2 Foreign-Trade Zone Industrial Park

Plans and design of site improvements for FTZ activities. Improvements include installation of water and sewer lines, electrical and communications lines, fire hydrants and other utilities; construction of roadways, security fencing, office space and other facilities needed to meet Foreign-Trade Zone requirements.

PLANS			50	
DESIGN				100
TOTAL FUNDING	PED		50 D	100 D

AGR192 - General Administration for AGR

7. A01 Agricultural Park Subdivision, Statewide

Plans and construction of on and off site improvements for development of agricultural lots.

CONSTRUCTION			2,000	
TOTAL FUNDING	AGS		2,000 C	C

7A. A-M9 DOA Facility, Maui
Facility to house DOA programs on Maui.

DESIGN				90
TOTAL FUNDING	AGS		C	90 C

7B. A-020 Construction and Renovations to DOA Facilities

Various construction and renovation projects at DOA facilities.

DESIGN				12
CONSTRUCTION				95
EQUIPMENT				1
TOTAL FUNDING	AGS		C	108 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F

LNR153 - Commercial Fishery and Aquaculture

8. C31 Aquatic Animal Isolation Area

Design, construct and equip a 1,500 square feet area at the Anuenue Fisheries Research Center, Sand Island, Honolulu, Oahu, for isolation of certain aquatic animals, including provision of tanks, pumps, fencing and related equipment.

DESIGN			2	
CONSTRUCTION			37	
EQUIPMENT			3	
TOTAL FUNDING	LNR		42 C	C

9. C32 Interim Pond Research Complex

Construct and equip an Interim Pond Research Complex consisting of eight acres of ponds and related earthwork, pipes, pumps and fencing on eleven acres of State land located adjacent to the University of Hawaii's Waialeale Livestock Research Center.

CONSTRUCTION			218	
EQUIPMENT			10	
TOTAL FUNDING	LNR		228 C	C

PED120 - Energy Development and Management

10. SEO-1 Energy Conservation in Hospitals Schools and Public Buildings

Do audit recommendations by modifying structures and elec/mechanical systems incld renovations alteration & retrofits in hospitals schools and public blgs to get signif energy savings & less costly operations. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

PLANS			370	340
DESIGN			330	385
CONSTRUCTION			480	510
EQUIPMENT			370	315
TOTAL FUNDING	PED		775 C	775 C
	PED		775 N	775 N

10A. AEB001 Hawaii Deep Water Cable Program Phase IIC (Supplemental)

Perform detailed surveys of the underwater cable route.

PLANS				1,000
TOTAL FUNDING	PED		C	1,000 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM CAPITAL PROJECT		EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
NO.	TITLE		FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
11.	AES775 Alternate Energy Demonstration and Commercialization Projects			
	Program to plan design and construct alternate energy facilities to demonstrate the potential of various alternate energy resources in Hawaii and to implement the commercialization of economically feasible alternate energy projects. Funds may be used for energy related projects and may be used to match non-state funds.			
	PLANS		350	325
	LAND		1	1
	DESIGN		220	250
	CONSTRUCTION		350	350
	EQUIPMENT		79	74
	TOTAL FUNDING	PED	1,000 C	1,000 C
LNR141 -	Water Development & Irrigation Services			
12.	G25 Water Sources Investigation, and Development, Hawaii			
	Studies, investigations, exploration and development for the prudent utilization of surface and ground water resources, and improvement of water quality for instream uses.			
	PLANS		10	10
	LAND		20	20
	DESIGN		20	20
	CONSTRUCTION		435	435
	TOTAL FUNDING	LNR	485 C	485 C
13.	G43 Water Sources Investigation, and Development, Oahu			
	Planning and conducting geologic and hydrologic investigations and engineering studies, and the exploration and development of surface and ground water resources. Improvement of water quality and preservation of water for instream uses.			
	PLANS		20	20
	LAND		20	20
	DESIGN		70	70
	CONSTRUCTION		745	745
	TOTAL FUNDING	LNR	855 C	855 C
14.	G44 Water Sources Investigation, and Development, Kauai			
	Conducting engineering and economic studies and geologic and hydrologic investigations and exploring and developing surface and ground water resources for consumption and instream uses.			

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		PLANS		15	15
		LAND		15	15
		DESIGN		30	30
		CONSTRUCTION		355	355
		TOTAL FUNDING	LNR	415 C	415 C
15.	G45	Water Resources Development for Agriculture Statewide			
		Planning acq design and construc of water facil for agriculture, including water development for aquaculture and rehabilitation of ditch systems.			
		PLANS		20	
		LAND		30	
		DESIGN		50	
		CONSTRUCTION		2,715	
		TOTAL FUNDING	LNR	2,815 C	C
16.	G46	Water Sources Investigation, and Development, Maui			
		Planning, land acquisition, design, construction and equipment for water sources investigation, exploration and development for the County of Maui. Water quality improvement for instream uses.			
		PLANS		10	10
		LAND		20	20
		DESIGN		130	30
		CONSTRUCTION		1,235	335
		TOTAL FUNDING	LNR	1,395 C	395 C
17.	J04	Maunawili Watershed Acquisition, Oahu			
		Acquisition of land and water rights at Maunawili Valley, Oahu.			
		LAND		3,800	
		TOTAL FUNDING	LNR	3,800 C	C
18.	G86	Waimea Irrigation System, Upper Hamakua Ditch, Hawaii			
		Design and construction for incremental development.			
		PLANS		20	
		DESIGN		60	40
		CONSTRUCTION		570	460
		TOTAL FUNDING	LNR	650 C	500 C
18A.	J07	Development of Waikolu Well, Molokai Irrigation System			
		Planning, designing & constructing pump, controls, and pipe line for Waikolu well for Molokai Irrigation System.			
		PLANS			10
		DESIGN			50

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		CONSTRUCTION			640
		TOTAL FUNDING	LNR	C	700 C
	18B.	Kaho'olawe Water Survey			
		Plans to survey potential sources of water on Kaho'olawe.			
		PLANS			75
		TOTAL FUNDING	LNR	C	75 C
	18C.	Puu Pulehu Reservoir, Kamuela, Hawaii			
		Construction and improvements to the Puu Pulehu Reservoir Lining.			
		CONSTRUCTION			1,650
		TOTAL FUNDING	LNR	C	1,650 C
	18D.	Maui Water Development			
		Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water resources including the improvement of water quality and preservation of water for instream uses.			
		PLANS			100
		LAND			100
		DESIGN			100
		CONSTRUCTION			2,200
		TOTAL FUNDING	LNR	C	2,500 C
	Transportation Facilities				
	TRN102 - HIA Facilities and Services				
	1.	A10 HIA Roadways and Parking			
		Design & construct roads & parking areas including ground and elevated structures and exit plaza for overseas and inter-island terminals and support areas. Alterations to existing roads and parking facilities and other misc improvements. New parking structure. Relocate existing tenants. This project is deemed necessary to qualify for federal aid financing or reimbursement.			
		DESIGN		270	
		CONSTRUCTION		2,800	
		TOTAL FUNDING	TRN	2,970 E	E
			TRN	100 N	N

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
2. A11 HIA Interisland Complex					
Design and construct interisland complex including buildings, aprons and taxiways, roadways, parking and other misc improvements. Land acquisition. Relocate existing interisland maintenance, cargo and admin offices. Alterations to existing bldgs aprons, roadways and parking. Install furniture, landscaping, and misc equipment. This project is deemed necessary to qualify for federal-aid financing or reimbursement.					
DESIGN				2,000	
CONSTRUCTION					10,000
TOTAL FUNDING			TRN	2,000 E	10,000 E
3. A23 HIA Airfield Improvements					
Design & construct improvements to airfield facil. including taxiways, runways signs, engine run up pad, service roads, safety areas, lighting systems, emergency generator, and other misc improvements. This project is deemed necessary to qualify for federal aid financing or reimbursement.					
DESIGN					300
CONSTRUCTION					2,760
TOTAL FUNDING			TRN	E	2,960 E
			TRN	N	100 N
4. A37 Airport Systems Improvements					
Design and construct system improvements including energy management, signs, flight information, fire alarm, security operational controls, loading bridges, utilities, ramp air, and fueling. Improve energy efficiency and operational efficiency and other misc improvements.					
DESIGN				2,900	
CONSTRUCTION					18,200
TOTAL FUNDING			TRN	B	4,000 B
			TRN	2,900 E	14,200 E
5. A41 HIA Terminal Modifications					
Design and construct improvements to facilities including buildings, roads, parking, utilities, aircraft parking aprons, signs, & landscaping. Relocate existing tenants. Projects for operational and energy efficiency, passenger convenience and other misc improvements.					
DESIGN				3,000	950

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		CONSTRUCTION		8,000	17,300
		TOTAL FUNDING	TRN	5,000 B	5,000 B
			TRN	6,000 E	13,250 E

6. A43 Service Support Facilities at HIA

Design and construct service support facilities including buildings, roads, parking, utilities, landscaping, telephone, nonpotable water, lease lots, service court development, aprons, taxiways, cargo terminal and other misc improvements.

DESIGN		550	
CONSTRUCTION		6,000	2,500
TOTAL FUNDING	TRN	6,550 E	2,500 E

TRN104 - General Aviation Facilities and Services

7. A71 General Aviation Reliever Airport Oahu

Land acquisition, design and construction of a general aviation reliever airport on existing military airfield on Oahu. Construct runway, taxiway, aircraft aprons, T hangars, roads and parking, site preparation, utilities and other appurtenances. This project is deemed necessary to qualify for federal aid financing or reimbursement.

DESIGN		1,000	
CONSTRUCTION		4,000	
TOTAL FUNDING	TRN	4,000 E	E
	TRN	1,000 N	N

TRN111 - General Lyman Field Facilities & Service

8. B10 General Lyman Improvements

Design and construct improvements to facilities including bldgs, roads, parking, utilities, airfield and other misc improvements. Modifications to existing facilities. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

DESIGN		40	
CONSTRUCTION		400	
TOTAL FUNDING	TRN	440 E	E

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F

TRN114 - Ke-Ahole Airport Facilities and Services

9. C03 Keahole Airport Improvements

Design and construct improvements to facilities including bldgs, roads, parking, aprons, runways, taxiways, and utilities. Alterations to existing facilities and relocation of tenants. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

DESIGN			700	
CONSTRUCTION			4,500	4,000
TOTAL FUNDING	TRN		4,700 E	4,000 E
	TRN		500 N	N

TRN131 - Kahului Airport Facilities and Services

10. D04 Kahului Airport Expansion

Design and construct additions & alterations to bldgs, roads and parking, aprons, new terminal, taxiways, runways, landcp, furniture, sitework, cargo terminal, offsite drainage, relocate control tower, relocate tenants and other misc improvements. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

DESIGN			3,000	
CONSTRUCTION			18,700	14,800
TOTAL FUNDING	TRN		5,000 B	5,000 B
	TRN		15,200 E	8,400 E
	TRN		1,500 N	1,400 N

11. D08 Service Support Facilities at Kahului Airport

Design and construct bldgs, roads, parking aprons, taxiways, lease lots, cargo terminal, helipads and other misc improvements. Relocation of existing tenants.

DESIGN			150	
CONSTRUCTION			1,500	
TOTAL FUNDING	TRN		1,650 E	E

TRN141 - Molokai Airport Facilities and Services

12. D55 Molokai Airport Improvements

Design and construct bldgs, roads, parking, aprons, utilities landscaping, modifications to existing facilities, relocation of existing tenants and other misc improvements.

DESIGN			35	
CONSTRUCTION			350	
TOTAL FUNDING	TRN		385 E	E

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F

TRN161 - Lihue Airport Facilities and Services

13. E03 Lihue Airport Complex

Construct airport facilities including bldgs, roads, parking, utilities, aircraft aprons, taxiways, runways, cargo terminal, lease lots and hangars, alteration to existing facilities including bldgs, airfield, road, parking and other misc improvements. Relocation of tenants and modifications to existing facilities. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

DESIGN

750

CONSTRUCTION

7,300

TOTAL FUNDING

TRN

4,000 B

B

TRN

4,050 E

E

TRN195 - Air Transportation Facilities And Services Support

14. F04 Airport Planning Statewide

Provide basic data and info. for proper planning, preliminary designs, special engineering, architectural, environmental and special studies for the statewide system of airports and continue review and updating of master plans. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

PLANS

500

400

TOTAL FUNDING

TRN

500 B

400 B

15. F06 Land Acquisition Statewide

Acquisition of land, airport facilities and lease rights for statewide airports.

LAND

12,500

TOTAL FUNDING

TRN

B

6,000 B

TRN

E

6,500 E

16. F08 Airport Improvements Statewide

Misc improvements to various airports. Improvements for safety and certification requirements. Improvements to facilities and improvements to operational efficiency. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

DESIGN

1,140

CONSTRUCTION

9,800

4,000

TOTAL FUNDING

TRN

4,000 B

4,000 B

TRN

5,540 E

E

TRN

1,400 N

N

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

				APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
TRN301 - Honolulu Harbor Facilities and Services					
17.	J02	Improvements to Facilities at Piers 19 to 34 at Honolulu Harbor			
		Improvement of facilities in the piers 19 to 34 area including partial demolition and improvements and modification to shed facilities in the piers 24-26 area and other improvements.			
		DESIGN		40	
		CONSTRUCTION			460
		TOTAL FUNDING	TRN	40 B	460 B
18.	J03	Miscellaneous Improvements to Facilities at Honolulu Harbor			
		Misc improvements to piers, sheds, and yard facilities at Honolulu Harbor, including improvements to lighting, paving, and other facilities.			
		DESIGN		20	20
		CONSTRUCTION		90	95
		TOTAL FUNDING	TRN	110 B	115 B
19.	J04	Improvements to Fort Armstrong Facilities			
		Improvements to piers and yard area and other improvements.			
		DESIGN		100	35
		CONSTRUCTION		700	260
		TOTAL FUNDING	TRN	B	295 B
			TRN	800 E	E
20.	J06	Container Facilities at Sand Island, Oahu			
		Development of Sand Island container yard areas and other improvements.			
		DESIGN		75	
		CONSTRUCTION		660	
		TOTAL FUNDING	TRN	735 B	B
20A.	J25	Commercial Fisheries Facility Development			
		Construct roadway, comfort station, parking area and other improvements.			
		DESIGN			18
		CONSTRUCTION			117
		TOTAL FUNDING	TRN	B	135 B
20B.	J29	Fireboat for Honolulu Harbor			
		Replacement of existing fireboat for Honolulu Harbor.			
		CONSTRUCTION			2,500
		TOTAL FUNDING	TRN	E	2,500 E

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
TRN303 - Barbers Point Harbor Facilities and Services					
22.	J11	Barbers Pt. Deep Draft Harbor Improvements, Oahu			
		Incremental development of Barber's Pt. Harbor including fencing, clearing, grubbing and the construction of access roads, pier, yard and shed facilities, utilities, and miscellaneous improvements.			
		DESIGN		150	
		CONSTRUCTION		7,150	4,950
		TOTAL FUNDING	TRN	150 B	B
			TRN	7,150 E	4,950 E
TRN305 - Kewalo Basin Facilities and Services					
22A.	J12	Kewalo Basin Improvements, Oahu			
		Improvements at Kewalo Basin including removal of existing catwalks, construction of new catwalks, water circulation structure, fill, revetment, utilities, paving, lighting, and other shoreside improvements.			
		CONSTRUCTION			1,490
		TOTAL FUNDING	TRN	C	1,490 C
TRN311 - Hilo Harbor Facilities and Services					
23.	L06	Container Facilities at Hilo Harbor, Hawaii			
		Reconstruction and strengthening of pier 1 and other improvements.			
		CONSTRUCTION		2,000	800
		TOTAL FUNDING	TRN	2,000 E	800 E
TRN331 - Kahului Harbor Facilities and Services					
24.	M01	Kahului Harbor Improvements, Maui			
		Sidings and doors for Pier 2 shed extension and other improvements.			
		DESIGN		20	
		CONSTRUCTION			200
		TOTAL FUNDING	TRN	20 B	200 B
25.	M06	Pier 1 Improvements at Kahului Harbor			
		Development of pier and backup area and other improvements.			
		CONSTRUCTION		800	
		TOTAL FUNDING	TRN	800 B	B

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

				APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
TRN361 - Nawiliwili Harbor Facilities and Services					
26.	K01	Nawiliwili Harbor Improvements, Kauai			
		Modifications and improvements to seawall and jetty area at Nawiliwili and other improvements.			
		DESIGN		50	
		CONSTRUCTION			460
		TOTAL FUNDING	TRN	50 B	460 B
26A.	K09	Utility Improvements at Nawiliwili Harbor			
		Install a new water distribution system for Piers 1 and 2 including a "master" meter.			
		DESIGN			50
		CONSTRUCTION			300
		TOTAL FUNDING	TRN	B	350 B
TRN395 - Water Transportation Facilities and Services Support					
27.	I01	Statewide Harbor Planning			
		Continuing harbor studies, research and advance planning of harbor and terminal facilities on all islands.			
		PLANS		120	
		TOTAL FUNDING	TRN	120 B	B
28.	I03	Misc. Imprv. to Fac. at Neighbor Island Ports			
		Improvements to yard areas, sheds, piers, utilities. Water areas and other facilities.			
		DESIGN		20	20
		CONSTRUCTION		90	95
		TOTAL FUNDING	TRN	110 B	115 B
29.	I04	Statewide Commercial Har. Sewer System Improvement			
		Sewer improvements at baseyard and at Honolulu Harbor including Piers 31 to 33 areas.			
		DESIGN		25	20
		CONSTRUCTION		151	125
		TOTAL FUNDING	TRN	176 B	145 B
TRN501 - Oahu Highways and Services					
30.	Q52	Interstate H-1, Palailai to Kunia Interchange Oahu.			
		Construction of additional inbound & outbound lanes. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		DESIGN		1,000	
		CONSTRUCTION		9,500	
		TOTAL FUNDING	TRN	1,300 D	D
			TRN	9,200 J	J
31.	Q54	Interstate H-1, Waiawa to Halawa Interchange, Oahu.			
		Additional lanes to increase the inbound and outbound capacity of the highway from Waiawa to Halawa interchange. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		DESIGN		650	
		CONSTRUCTION		6,500	
		TOTAL FUNDING	TRN	1,230 D	D
			TRN	5,920 J	J
32.	R30	Interstate Route H-3, Junction at H-1 to Kaneohe Marine Corps Air Station, Oahu.			
		Incremental construction of divided highway from junction at H-1 to Kaneohe Marine Corps Air Station. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		CONSTRUCTION		97,155	200,330
		TOTAL FUNDING	TRN	12,047 D	24,000 D
			TRN	85,108 J	176,330 J
33.	R71	Likelike Hwy-Kahekili Hwy Interchange and Kahekili Highway Improvements, Oahu			
		Land and design for interchange at Likelike Highway and improvements to Kahekili Highway from Likelike Highway to Kamehameha Highway. This project is deemed necessary to qualify for federal aid financing or reimbursement.			
		LAND		3,122	
		DESIGN		742	
		CONSTRUCTION			1,000
		TOTAL FUNDING	TRN	1,664 D	1,000 D
			TRN	2,200 K	K
34.	R76	Kalaniana'ole Highway, Ainakoa to Lunalilo Home Road, Oahu			
		Developing a transportation corridor including highways, bikeways and land transit systems from Hawaii Kai to downtown Honolulu. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		LAND		950	
		DESIGN		1,461	
		TOTAL FUNDING	TRN	746 D	D
			TRN	1,665 K	K

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
35.	S43	Relocation of Waianae Baseyard, Waianae, Oahu.			
		Development of new highway maintenance baseyard adjacent to Waianae Intermediate School.			
		DESIGN		25	
		CONSTRUCTION			175
		TOTAL FUNDING	TRN	25 D	175 D
36.	S51	Pali Highway Improvement, Waokanaka to Vineyard Boulevard, Oahu			
		Construction of additional traffic lanes and signals. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		DESIGN		17	
		CONSTRUCTION		2,500	
		TOTAL FUNDING	TRN	892 D	D
			TRN	1,625 K	K
37.	S70	Fort Weaver Road Realignment and Widening, Ewa, Oahu			
		Realignment and widening of Fort Weaver Road including improvements to Kunia Rd. to provide for a connection to H-1 and improvements of existing 2-lane hwy to a divided hwy, and for the extension of the Renton Rd-Hanakahi St. section. This project is deemed nec. to qualify for federal-aid financing or reimbursement.			
		CONSTRUCTION		5,000	
		TOTAL FUNDING	TRN	1,300 D	D
			TRN	3,700 K	K
38.	S78	Guardrail & Shoulder Improvements at Various Locations on State Hwys on Oahu			
		Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrails, concrete safety barriers and modernization of existing guardrails at various locations on state highways on Oahu.			
		DESIGN		50	60
		CONSTRUCTION		738	735
		TOTAL FUNDING	TRN	788 B	795 B
39.	S80	Highway Lighting Improvements, Oahu			
		Highway lighting improvements and rehabilitation at various locations on Oahu. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		DESIGN		48	55

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		CONSTRUCTION		2,070	
		TOTAL FUNDING	TRN	1,311 D	55 D
			TRN	807 K	K
40.	S83	Sand Island Access Road Widening and Improvements, Oahu.			
		Completion of Sand Island Parkway Road, construction of second bridge, widening of existing road to Nimitz Hwy, and construction of interchange at Nimitz Hwy. This project is deemed necessary to qualify for federal-aid financing or reimbursement. \$950,000 (D) may be used to reimburse the Harbor special fund for design of the second bridge which was funded by the Harbor special fund.			
		LAND		51	
		DESIGN		950	
		CONSTRUCTION			12,009
		TOTAL FUNDING	TRN	1,001 D	3,600 D
			TRN	K	8,409 K
41.	S85	Rehabilitate Existing Sprinkler Systems at Various Locations, Oahu			
		Rehabilitate existing sprinkler systems to conserve water on landscaped areas along the interstate freeways and other major urban highways.			
		DESIGN		40	
		CONSTRUCTION			500
		TOTAL FUNDING	TRN	40 D	500 D
42.	S94	Kamehameha Highway, H-1 to Mililani Town, Oahu.			
		Design, rights-of-way, and construction for widening and improvements, including pedestrian walkways.			
		LAND		1	1
		DESIGN		10	10
		CONSTRUCTION		100	100
		TOTAL FUNDING	TRN	111 D	111 D
42A.	S95	Farrington Highway, Replacement of 7 Timber Bridges, Makaha, Oahu.			
		Replacement of 7 timber bridges, Makaha No. 2, No. 3, No. 3A, No. 3B, No. 4, No. 5, No. 5A on Farrington Hwy, Oahu. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		DESIGN			500
		TOTAL FUNDING	TRN	D	225 D
			TRN	N	275 N

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
42B.	S96	Barbers Point Deep Draft Harbor Access Road, Barbers Point, Oahu.			
		Construction and improvements to FAP 95 from H-1 to Barbers Point Deep Draft Harbor.			
		LAND			105
		DESIGN			90
		CONSTRUCTION			950
		TOTAL FUNDING	TRN	D	1,145 D
TRN511 - Hawaii Highways and Services					
43.	T02	Hilo Waterfront Road, Wailoa River Bridge to Hilo Wharf, Hilo, Hawaii.			
		Improvement of highway from the vicinity of Wailoa River Bridge to Hilo Wharf including the replacement of Wailoa River Bridge. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		LAND		802	
		DESIGN		111	
		CONSTRUCTION			9,500
		TOTAL FUNDING	TRN	381 D	2,375 D
			TRN	532 N	7,125 N
44.	T16	Hawaii Belt Road, Improvements to Section 19H			
		Realignment of portion of Hawaii Belt Road including the construction of the Kapehu and Kaalau bridges. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		LAND			195
		DESIGN		97	
		TOTAL FUNDING	TRN	97 D	195 D
45.	T26	Hawaii Belt Road, Climbing Lanes at Ookala, Hamakua, Hawaii			
		Construction of climbing lanes from Kaawalii Gulch to Ookala Cemetery.			
		CONSTRUCTION		343	
		TOTAL FUNDING	TRN	343 D	D

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
46.	T56	Hawaii Belt Road, Slaughter House Road to South of Keaau-Pahoa Road, Puna, Hi			
		Improvement and realignment of existing two-lane highway to four-lane highway from the vicinity of Slaughter House Road to south of the Keaau-Pahoa Road, including improvement of the Hawaii Belt Road and Keaau-Pahoa Road intersection. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		CONSTRUCTION		3,317	
		TOTAL FUNDING	TRN	995 D	D
			TRN	2,322 K	K
47.	T61	Hawaii Belt Road, Truck Climbing Lanes, Pepekeo, South Hilo, Hawaii			
		Construction of climbing lanes on Hawaii Belt Road at Pepekeo.			
		LAND		8	
		CONSTRUCTION		760	
		TOTAL FUNDING	TRN	768 D	D
48.	T75	Keaau-Pahoa Road, Puna, Hawaii			
		Reconstruction of highway from Hawaiian Paradise Park to vicinity of Keonepoko Homesteads. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		LAND		374	
		TOTAL FUNDING	TRN	62 D	D
			TRN	312 L	L
49.	T77	Guardrail and Shoulder Improvements, at Various Locations on State Hwys on HI			
		Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrails and modernization of existing guardrails at various locations on state highway on Hawaii.			
		DESIGN		13	6
		CONSTRUCTION		302	92
		TOTAL FUNDING	TRN	315 B	98 B

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

				APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
TRN531 - Maui Highways and Services					
50.	V41	Haleakala Highway, Hana Highway to Kula Highway, Makawao, Maui			
		Construction of highway from Haliimaile Road to Kula Highway Junction, and a truck climbing lane from Hana Highway to Haliimaile Road. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		LAND		2,115	
		TOTAL FUNDING	TRN	635 D	D
			TRN	1,480 K	K
51.	V45	Hana Highway-Huelo to Hana, Maui			
		Repair and replacement of bridges and culverts, safety improvements and resurfacing of Hana Highway from Huelo to Hana.			
		DESIGN		50	100
		CONSTRUCTION		450	900
		TOTAL FUNDING	TRN	500 D	1,000 D
52.	V48	Guardrail and Shoulder Improvements on State Highways on Maui			
		Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrails and modernization of existing guardrails at various locations on state highways on Maui.			
		DESIGN		50	40
		CONSTRUCTION		550	510
		TOTAL FUNDING	TRN	600 B	550 B
53.	V49	Honoapiilani Highway Chainlink Drapery Along Pali Section, Maui			
		Installation of chainlink drapery to prevent rocks from falling onto highway.			
		DESIGN		50	40
		CONSTRUCTION		450	450
		TOTAL FUNDING	TRN	500 D	490 D
54.	V51	Honoapiilani Hwy Widening and/or Realignment, Kaanapali Resort to Puamana, Maui.			
		To widen the existing highway and/or to construct a new alignment from Kaanapali Resort to Puamana. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		DESIGN		500	
		TOTAL FUNDING	TRN	500 D	D

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
54A. V52 Hana Highway, Replacement of Three (3) Timber Bridges, Haiku, Maui					
Replacement of three timber bridges, Kaupakalua Bridge, Uaoa Bridge and Hoolawa Bridge. This project is deemed necessary to qualify for federal-aid financing or reimbursement.					
DESIGN					500
TOTAL FUNDING			TRN	D	225 D
			TRN	N	275 N
TRN541 - Molokai Highways and Services					
55. W07 Kamehameha V Highway and Maunaloa Highway-Replacement of Bridges, Molokai					
Replacement of Honoulimaloo and Kamalo Bridges on Kam V Highway and Manawainui Bridge on Maunaloa Highway. This project is deemed necessary to qualify for federal-aid financing or reimbursement.					
LAND				72	160
DESIGN					40
CONSTRUCTION					2,400
TOTAL FUNDING			TRN	35 D	680 D
			TRN	37 N	1,920 N
56. W08 Guardrail and Shoulder Improvements on State Highways on Molokai					
Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrails and modernization of existing guardrails at various locations on state highways on Molokai.					
DESIGN				60	
CONSTRUCTION					580
TOTAL FUNDING			TRN	60 B	580 B
TRN551 - Lanai Highways and Services					
57. W58 Guardrail and Shoulder Improv. at Various Locations on State Hwys on Lanai					
Upgrading of existing dirt or sod shoulders with stabilized base & surface treatment or paving & installation of metal guardrail and modernization of existing guardrail at various locations on state highways on Lanai.					
DESIGN				30	
CONSTRUCTION					300
TOTAL FUNDING			TRN	30 B	300 B

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
TRN561 - Kauai Highways and Services					
58.	X43	Hanamaulu-Ahukini Cutoff Rd, Kauai			
		Land acquisition, plans & construction of hwy to relieve congestion thru Lihue town area. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		CONSTRUCTION		3,972	9,000
		TOTAL FUNDING	TRN	1,312 D	2,700 D
			TRN	2,660 K	6,300 K
59.	X45	Kaumualii Highway-Huleia Bridge Replacement, Kauai			
		Construction of bridge and approaches to replace existing structure. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		LAND		127	
		CONSTRUCTION		5,330	
		TOTAL FUNDING	TRN	2,592 D	D
			TRN	2,865 N	N
60.	X51	Guardrail and Shoulder Improv at Various Locations on State Highways on Kauai			
		Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrails and modernization of existing guardrails at various locations on state highways on Kauai.			
		DESIGN		10	26
		CONSTRUCTION		207	489
		TOTAL FUNDING	TRN	217 B	515 B
TRN595 - Land Transportation Facilities and Services Support					
61.	X91	Construction of Wheelchair Ramps-Statewide			
		Construction of wheelchair ramps at various locations along state highways, statewide.			
		DESIGN		15	
		CONSTRUCTION		185	
		TOTAL FUNDING	TRN	200 D	D

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STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
62.	X96	Close-out of Highway Rights-of-Way, Statewide			
		To acquire clear title to real property used for the construction of previous highway projects where applicable, to provide for the transfer of real property interest from the state to the counties for the implementation of the state highway system.			
		LAND		300	300
		TOTAL FUNDING	TRN	300 D	300 D
63.	X98	Miscellaneous Improvements to Existing Intersections & Highway Fac., Statewide			
		Miscellaneous improvements to existing intersections and highway facilities necessary for traffic safety, including elimination of constrictions, on-and-off site, effecting efficient flow of traffic on interstate highways. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		LAND		100	100
		DESIGN		335	335
		CONSTRUCTION		1,915	1,915
		TOTAL FUNDING	TRN	725 D	725 D
			TRN	1,625 N	1,625 N
64.	X99	Highway Planning, Statewide.			
		Road use, road life, economic studies, research and advance planning of federal-aid and non federal-aid highway projects. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		PLANS		2,511	2,611
		TOTAL FUNDING	TRN	848 B	882 B
			TRN	1,663 N	1,729 N

Environmental Protection

HTH840 - Solids, Liquids, Gases, and Noise

1. 840001 Sewerage Construction Grants

Grants to county or state agency for eligible water pollution control facilities conforming with state WPC plan authorized by Act 187/79. State may make grants to finance eligible planning, design and/or construction costs of projects receiving federal grants.

PLANS		75	75
DESIGN		525	525
CONSTRUCTION		4,100	4,100
TOTAL FUNDING	HTH	4,700 C	4,700 C

CAPITAL IMPROVEMENT PROJECTS

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			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
LNR402 - Forests and Wildlife Resources					
2. D-01 Forest Roads					
Development of a road network for forest areas to provide easy access for management/recreation/scientific/education/etc. purposes.					
		PLANS		2	5
		DESIGN		7	14
		CONSTRUCTION		35	225
		TOTAL FUNDING	LNR	44 C	244 C
3. D-09 Hilo Department of Land and Natural Resources Baseyard Improvement					
Improvements to baseyard to include construction of a warehouse, covering structure over grease pit & heavy equipment repair area, expansion of repair shop area, expansion of covered parking area, paving, & construction of storage building for state parks supplies and motor vehicles.					
		PLANS		5	
		DESIGN		13	15
		CONSTRUCTION		340	150
		EQUIPMENT		12	15
		TOTAL FUNDING	LNR	370 C	180 C
4. D-15 Arboreta Development					
Development of a suitable location for the purpose of growing select vegetation for recreation, scientific, research, & educational pursuits. Includes the growth of exotic and native species and support facilities.					
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		10	
		TOTAL FUNDING	LNR	12 C	C
5. D-23 Hawaii Endangered Species Facilities - Maui					
Planning, design, construction, and renovation of an endangered species facility to maintain & breed endangered species in captivity for research & release into the wild including facilities for research, veterinary medicine & security. This project is deemed necessary to qualify for federal-aid financing or reimbursement.					
		PLANS		25	
		DESIGN		50	
		CONSTRUCTION			600
		EQUIPMENT			130
		TOTAL FUNDING	LNR	75 C	730 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
6. D-42 Kamuela Support Facility					
Construction of a structure to provide covered parking for vehicles & equipment at Kamuela; enclosed storage space for operational and fire tools, small equipment, material and supplies; and a workshop to accommodate maintenance and minor repair work on facilities and equipment.					
		PLANS		2	
		DESIGN		4	
		CONSTRUCTION		150	
		EQUIPMENT		11	
		TOTAL FUNDING	LNR	167 C	C
7. D-44 Polipoli Access Road, Maui					
Incremental paving of Polipoli Access Road to improve access to public hunting areas -2.1 miles.					
		PLANS		6	6
		CONSTRUCTION		190	195
		TOTAL FUNDING	LNR	196 C	201 C
8. D-45 Kawaiui Marsh Wildlife Sanctuary, Oahu					
Planning, design and construction of facilities for wildlife conservation and education including vegetation removal to create open water, moats, and islands; fencing boundaries to exclude predators and disturbance; develop access trails and viewing sites for public use, and erect boundary and interpretive signs and displays.					
		PLANS		20	5
		DESIGN		30	
		CONSTRUCTION			50
		EQUIPMENT			75
		TOTAL FUNDING	LNR	50 C	130 C
LNR404 - Water Resources					
9. G89 Investigation and Development of Alternative Water Sources, Statewide					
Plans, land acquisition, design and construction for the investigation and development of alternative water sources.					
		PLANS		100	
		LAND		100	
		DESIGN		200	
		CONSTRUCTION			900
		TOTAL FUNDING	LNR	400 C	900 C

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			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
10.	G91	Investigation and Development of Desalting Plant Technology			
		Plans, land acquisition, design and construction of a one MGD desalting demonstration plant.			
		DESIGN		250	
		CONSTRUCTION			4,000
		TOTAL FUNDING	LNR	250 C	2,000 C
			LNR	X	2,000 X

TRN903 - Coastal Areas

11. 10K Niumalu Shore Protection, Kauai

Design and construction of revetment for shoreline protection at Niumalu including clearing, grading, and other improvements.

CONSTRUCTION		350	
TOTAL FUNDING	TRN	350 C	C

11A. 18O Ala Wai Canal, Oahu

Additional repairs to retaining wall at Ala Wai Canal, Oahu.

DESIGN			7
CONSTRUCTION			55
TOTAL FUNDING	TRN	C	62 C

11B. Ala Wai Canal, Oahu

Plans for improvements to the Ala Wai Canal.

PLANS			30
TOTAL FUNDING	TRN	C	30 C

Health

HTH111 - Hansen's Disease

1. Kalaupapa Gasoline Storage Facility

Design and construction of a gasoline storage facility at Kalaupapa settlement.

DESIGN		15	
CONSTRUCTION		92	
TOTAL FUNDING	AGS	107 C	C

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STATE OF HAWAII

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
1A.	111005	Kalaupapa Bay View Homes Upgrade & Renov to Conform with Codes for Carehome			
		Renovate Bay View Homes bldgs 2, 3, & 5 (Bldg inventory National Park Service Vol 1). Structures are used for patient residence bldg 5 used as patient dining hall. Structures are framed bldg of single wall construction built in 1916. Bldgs 2 & 3 are 3700 sq ft each. Bldg 5 is 1300 sq ft. Bldgs are historically significant. Need is based on aging patient population requiring carehome services.			
		DESIGN			48
		TOTAL FUNDING	AGS	C	48 C
HTH215 - Kona Hospital					
	2.	Kona Hospital Renovation and Expansion			
		Plans for renovation and expansion of present facility.			
		PLANS		210	
		TOTAL FUNDING	AGS	210 C	C
HTH430 - Hawaii State Hospital					
	3.	430001 Hawaii State Hospital			
		Plans and construction for development of State Hospital, including renovations and modifications.			
		CONSTRUCTION			15,000
		TOTAL FUNDING	AGS	C	15,000 C
HTH511 - Waimano Training School and Hospital					
	4.	511002 Convert Waimano Training School and Hospital's Primary Electrical Sys to HECO			
		Hawaiian Electric Company to replace Waimano Training School and Hospital's primary electrical system. Maintenance of the primary electrical shall be borne by Hawaiian Electric Company. Conversion is necessary to stabilize power fluctuations, which cause motor and equipment shutdown. Current system is overloaded and unable to handle increased power demands.			
		PLANS		10	
		DESIGN		25	
		CONSTRUCTION		100	
		TOTAL FUNDING	AGS	135 C	C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F

HTH601 - Vector Control

5. 601001 Kauai Vector Control Facility

Construct office, laboratory, restroom/
shower, general storage, garage,
chemical storage, wash rack and security
fence and gate.

DESIGN			35	
CONSTRUCTION				552
EQUIPMENT				10
TOTAL FUNDING	AGS		35 C	562 C

Social Services

HHL602 - Plnng, Devpt and Mgt for Hawn Homestd Land

1. LMD001 Hawaiian Home Lands Development,
Statewide

Development of Hawaiian Home Lands for
residential, agricultural, and other
purposes permitted by the Hawaiian Homes
Commission Act, 1920, as amended,
including plans, designs and the
construction of on-site (such as
grading, roads and utilities) and off-
site improvements.

PLANS			10	
DESIGN			200	
CONSTRUCTION				5,780
EQUIPMENT				10
TOTAL FUNDING	HHL		210 C	5,790 C

1A. H30 Molokai Water System Improvement

To upgrade the existing water system on
Molokai to County of Maui standards.

CONSTRUCTION				1,950
TOTAL FUNDING	HHL		C	1,950 C

1B. LMD004 Hawaiian Home Lands Economic
Development, Statewide

Development of Hawaiian Home Lands for
residential, agricultural, commercial,
industrial, resort and other purposes
permitted by the Hawaiian Homes
Commission Act, 1920, as amended,
including plans, designs and the
construction of on-site (roads and
utilities) and off-site improvements.

PLANS				7
DESIGN				131
CONSTRUCTION				1,605
EQUIPMENT				7
TOTAL FUNDING	HHL		C	1,750 C

CAPITAL IMPROVEMENT PROJECTS

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			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
SOC220 - Rental Housing Augmentation and Assistance					
2.	HA8701	Bathroom Renovations at Palolo Homes I			
		Demolition, removal and installation of new bath facilities, installation of floor tiles, installation of shelves and/or cabinets, and correction to lighting deficiencies.			
		CONSTRUCTION			350
		TOTAL FUNDING	SOC	C	350 C
3.	HA8702	Electrical Modernization at Palolo Homes I			
		Upgrade outlet receptacles to grounding-type, install ground fault interrupter receptacles, upgrade interior lighting system, and install smoke detectors.			
		CONSTRUCTION			110
		TOTAL FUNDING	SOC	C	110 C
4.	HA8703	Installation of Security and Emergency Call System at Makamae			
		Installing emergency call system, enterphone facilities, and security walls and fences related to the enterphone installation.			
		CONSTRUCTION			125
		TOTAL FUNDING	SOC	C	125 C
5.	HA8704	Electrical Modernization at Lokahi			
		Installing new light fixtures, additional outlet receptacles, partial rewiring and ground fault interrupters.			
		DESIGN			8
		CONSTRUCTION			60
		TOTAL FUNDING	SOC	C	68 C
6.	HA8706	Installation of Heater Enclosures at Kalihi Valley Homes			
		Installation of concrete masonry unit heater enclosures with storage cabinets.			
		CONSTRUCTION			350
		TOTAL FUNDING	SOC	C	350 C
7.	HA8707	Installation of Energy-efficient Street Lighting at Hauiki			
		Replace incandescent street lights with low pressure sodium fixtures.			
		DESIGN			2
		CONSTRUCTION			20
		TOTAL FUNDING	SOC	C	22 C

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STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F

8. HA8709 Installation of Heater Enclosures at
Palolo Homes I

Replacing wood sidings at laundry area
with reinforced concrete masonry unit
walls and installing new heater room
doors.

CONSTRUCTION			85
TOTAL FUNDING	SOC	C	85 C

Formal Education

EDN105 - Regular Instruction Program

1. 001 Relocate or Construct Portable
Classrooms

Relocation or construction of portables
each school year to meet enrollment
shifts among schools, program demands,
unforeseen emergencies, and to provide
temporary facilities while new schools
are being planned and/or under
construction. These funds are also for
secondary schools.

DESIGN		100	100
CONSTRUCTION		890	1,840
EQUIPMENT		10	60
TOTAL FUNDING	AGS	1,000 C	2,000 C

2. 002 Minor Improvements

Minor additions, renovations and
improvement to buildings and school
sites, including elementary special
classrooms (music, art and science).

DESIGN		70	70
CONSTRUCTION		225	225
EQUIPMENT		5	5
TOTAL FUNDING	AGS	300 C	300 C

3. 020 Modernizing and Upgrading of Public
School Facilities, Statewide

Design and construction for repair and
maintenance for modernization and
upgrading of public school facilities,
including necessary reroofing, to
conform with BOE's specifications and
standards.

DESIGN		2,000	2,000
CONSTRUCTION		18,005	18,005
TOTAL FUNDING	AGS	20,000 A	20,000 A
	AGS	5 C	5 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
4.	003	Lump Sum for Master Plans and Site Studies Minor Land Acquisition			
		Acquisition of small parcels, master planning, pre-land acquisition studies, site selection and feasibility studies to meet future and unforeseen needs. CIP assistance from DAGS in providing cost estimates for budgeting and expenditure planning.			
		PLANS		99	100
		LAND		1	
		TOTAL FUNDING	AGS	100 C	100 C
5.	005	Removal of Architectural Barriers and Special Education Classroom Improvements			
		Provide ramps, elevators, and other corrective measures for accessibility of school facilities to handicapped persons.			
		DESIGN		100	1,000
		CONSTRUCTION		980	1,000
		EQUIPMENT		20	
		TOTAL FUNDING	AGS	1,100 C	2,000 C
6.	008	Lump Sum - Fire Protection Systems; Fire Alarm Systems			
		Fire protection systems to meet water system standards.			
		DESIGN		50	50
		CONSTRUCTION		250	250
		TOTAL FUNDING	AGS	300 C	300 C
7.	009	Lump Sum - Correction to Sound Problem			
		To provide corrective measures on excessive exterior noise and ventilation problems that affect classrooms.			
		CONSTRUCTION		300	
		TOTAL FUNDING	AGS	300 C	C
8.	140005	McKinley High			
		Design and construct renovation of Building B.			
		CONSTRUCTION		1,665	
		EQUIPMENT		35	
		TOTAL FUNDING	AGS	1,700 C	C
9.	140006	McKinley High			
		Design and construct renovation of Building E.			
		DESIGN			135
		TOTAL FUNDING	AGS	C	135 C

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STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
10.	206002	Haleiwa Elementary			
		Design and construct restoration of Building A.			
		CONSTRUCTION		350	
		EQUIPMENT		10	
		TOTAL FUNDING	AGS	360 C	C
11.	237006	Wheeler Elementary School			
		Design and construct classrooms, ground and site improvements.			
		DESIGN			82
		TOTAL FUNDING	AGS	C	82 C
12.	325003	Waianae High School			
		Design and construct classrooms, ground and site improvements.			
		DESIGN			80
		TOTAL FUNDING	AGS	C	80 C
13.	335005	Nanakuli Elementary School			
		Design and construct classrooms; ground and site improvements.			
		DESIGN			60
		TOTAL FUNDING	AGS	C	60 C
14.	340005	Kanoelani Elementary			
		Design and construct classroom building, ground and site improvements.			
		DESIGN		52	
		CONSTRUCTION			600
		EQUIPMENT			8
		TOTAL FUNDING	AGS	52 C	608 C
15.	342001	Waianae III Elementary			
		Master plan report.			
		PLANS		50	
		TOTAL FUNDING	AGS	50 C	C
16.	342002	Waianae III Elementary			
		Land acquisition.			
		LAND			600
		TOTAL FUNDING	AGS	C	600 C
17.	342003	Waianae III Elementary			
		Design and construct first increment; classrooms, equipment and appurtenances, ground and site improvements.			
		DESIGN			150
		TOTAL FUNDING	AGS	C	150 C

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STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
18.	410009	Kahuku High School			
		Design and construct classroom building, sewer connection, ground and site improvements.			
		DESIGN		135	
		CONSTRUCTION			2,290
		EQUIPMENT			25
		TOTAL FUNDING	AGS	135 C	2,315 C
19.	420004	Laie Elementary			
		Design and construct classrooms, equipment and appurtenances.			
		CONSTRUCTION		1,290	
		EQUIPMENT		10	
		TOTAL FUNDING	AGS	1,300 C	C
20.	511002	Kau High and Pahala Elementary School Kau Hawaii			
		Design and construction of industrial arts facility, equipment and appurtenances, demolish old structure.			
		DESIGN		10	
		CONSTRUCTION		1,200	
		EQUIPMENT		10	
		TOTAL FUNDING	AGS	1,220 C	C
21.	514002	Kealakehe Elementary School			
		Design and construct classroom building, equipment and appurtenances, workroom, toilets.			
		DESIGN		125	
		CONSTRUCTION			2,200
		EQUIPMENT			25
		TOTAL FUNDING	AGS	125 C	2,225 C
22.	520002	Mt View Elementary & Intermediate School Puna Hawaii			
		Design and construction of classroom building with covered walkway, workroom, toilets, equipment and appurtenances.			
		CONSTRUCTION		821	
		EQUIPMENT		8	
		TOTAL FUNDING	AGS	829 C	C
23.	523008	Pahoa High & Elementary			
		Design and construction - Music and Arts & Crafts classrooms, equipment and appurtenances, covered walkways.			
		CONSTRUCTION		1,050	
		EQUIPMENT		10	
		TOTAL FUNDING	AGS	1,060 C	C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

				APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
24.	523012	Pahoa High and Elementary School			
		Design and construct classrooms, covered walkway, equipment and appurtenances. Demolish old structure.			
		DESIGN			150
		TOTAL FUNDING	AGS	C	150 C
25.	524002	Waiakea Elementary			
		Design and construct classrooms, covered walkway, equipment and appurtenances; parking, ground and site improvements.			
		CONSTRUCTION		1,730	
		TOTAL FUNDING	AGS	1,730 C	C
26.	525010	Waiakea High School			
		Design and construct classrooms, covered walkway, parking, equipment and appurtenances.			
		DESIGN		60	
		CONSTRUCTION			830
		EQUIPMENT			10
		TOTAL FUNDING	AGS	60 C	840 C
27.	526001	Waiakea Intermediate School			
		Design and construct classrooms, ground and site improvements.			
		DESIGN			85
		TOTAL FUNDING	AGS	C	85 C
28.	528002	Waimea Elementary and Intermediate			
		Design and construct classrooms, covered walkway, equipment and appurtenances.			
		DESIGN			60
		TOTAL FUNDING	AGS	C	60 C
29.	32006	Kahakai Elementary School			
		Design and construct classrooms; equipment and appurtenances, ground and site improvements.			
		DESIGN		66	
		CONSTRUCTION			1,000
		EQUIPMENT			14
		TOTAL FUNDING	AGS	66 C	1,014 C
30.	603004	Iao School, Maui			
		Design and construct classroom building, equipment and appurtenances, ground and site improvements.			
		DESIGN		86	
		CONSTRUCTION			1,395
		EQUIPMENT			9
		TOTAL FUNDING	AGS	86 C	1,404 C

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
31.	608010	Kihei School			
		Design and construct classroom building, parking, bus loading area, ground and site improvements.			
		DESIGN		175	
		CONSTRUCTION			2,880
		EQUIPMENT			20
		TOTAL FUNDING	AGS	175 C	2,900 C
32.	624002	Lahaina Intermediate School			
		Design and construct classrooms, ground and site improvements.			
		DESIGN		113	
		CONSTRUCTION			2,140
		EQUIPMENT			10
		TOTAL FUNDING	AGS	113 C	2,150 C
33.	626001	New Maui Intermediate School			
		Land acquisition.			
		LAND		600	
		TOTAL FUNDING	AGS	600 C	C
34.	626002	New Maui Intermediate School			
		Master plan report.			
		PLANS		50	
		TOTAL FUNDING	AGS	50 C	C
35.	626003	New Maui Intermediate School			
		Design and construct first increment; classrooms, parking, playcourt, playfield, ground and site improvements.			
		DESIGN			329
		TOTAL FUNDING	AGS	C	329 C
36.	701003	Hanalei Elementary			
		Design and construct classroom building, ground and site improvement. Demolish old structure.			
		CONSTRUCTION		1,374	
		EQUIPMENT		16	
		TOTAL FUNDING	AGS	1,390 C	C
37.	703003	Kapaa Elementary			
		Design and construct classroom building, equipment and appurtenances.			
		CONSTRUCTION		963	
		EQUIPMENT		12	
		TOTAL FUNDING	AGS	975 C	C
38.	ED 1	Waipahu Intermediate School			
		Design and construction of classrooms.			
		DESIGN		160	

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		CONSTRUCTION			1,600
		TOTAL FUNDING	AGS	160 C	1,600 C
39.	201010	Aiea High School, Oahu			
		Design and construction for retaining wall for athletic field.			
		DESIGN		58	
		CONSTRUCTION		342	
		TOTAL FUNDING	AGS	400 C	C
40.	215001	Mililani High School, Oahu - Gymnasium			
		Design, construction, and equipment for gymnasium.			
		DESIGN		10	
		CONSTRUCTION		2,890	
		EQUIPMENT		10	
		TOTAL FUNDING	AGS	2,910 C	C
41.	525003	Waiakea High School, Hawaii - Gymnasium			
		Design, construction, and equipment for Waiakea gymnasium.			
		DESIGN		10	
		CONSTRUCTION		3,090	
		EQUIPMENT		10	
		TOTAL FUNDING	AGS	3,110 C	C
42.	602004	Hana High School, Maui - Gymnasium			
		Design, construction, and equipment for gymnasium.			
		DESIGN		10	
		CONSTRUCTION		3,990	
		EQUIPMENT		15	
		TOTAL FUNDING	AGS	4,015 C	C
43.	410020	Kahuku Elementary School			
		Land acquisition, design and construction of classrooms and improvements for Kahuku Elementary School.			
		LAND			625
		DESIGN		400	
		CONSTRUCTION			3,175
		EQUIPMENT			40
		TOTAL FUNDING	AGS	400 C	3,840 C
43A.		Baldwin High School			
		Design and construct art/crafts and regular classrooms.			
		DESIGN			70
		CONSTRUCTION			500
		EQUIPMENT			9
		TOTAL FUNDING	AGS	C	579 C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
43B. Nanakuli High School					
		Reconstruct fire-damaged Building A.			
		CONSTRUCTION			1,500
		EQUIPMENT			20
		TOTAL FUNDING	AGS	C	1,520 C
EDN203 - School Administration					
44. 215002 Mililani High, Oahu					
		Design and construct administration building, convert temporary administration building to classrooms.			
		DESIGN		10	
		CONSTRUCTION		1,302	
		EQUIPMENT		8	
		TOTAL FUNDING	AGS	1,320 C	C
EDN303 - State Administration					
45. 015 State and District Office					
		Renovate existing school facilities for state and district office use.			
		DESIGN		40	
		CONSTRUCTION			300
		TOTAL FUNDING	AGS	40 C	300 C
EDN305 - School Food Services					
46. 335004 Nanakuli Elementary					
		Design and construct cafetorium, equipment and appurtenances, ground and site improvements.			
		DESIGN		82	
		CONSTRUCTION			1,150
		EQUIPMENT			28
		TOTAL FUNDING	AGS	82 C	1,178 C
47. 340004 Kanoelani Elementary					
		Design and construct cafetorium, equipment and appurtenances, ground and site improvements.			
		CONSTRUCTION		1,050	
		EQUIPMENT		26	
		TOTAL FUNDING	AGS	1,076 C	C
48. 341003 Leihoku Elementary					
		Design and construct cafetorium, equipment and appurtenances, ground and site improvements.			
		DESIGN		82	
		CONSTRUCTION			1,150
		EQUIPMENT			28
		TOTAL FUNDING	AGS	82 C	1,178 C

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			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
49.	524003	Waiakea Elementary			
		Design and construction renovate building into dining room/temporary library, equipment and appurtenances.			
		DESIGN		35	
		CONSTRUCTION			300
		EQUIPMENT			40
		TOTAL FUNDING	AGS	35 C	340 C
50.	532005	Kahakai Elementary			
		Design and construct kitchen, multi-purpose dining room, equipment and appurtenances, parking, ground and site improvements.			
		CONSTRUCTION		1,300	
		EQUIPMENT		28	
		TOTAL FUNDING	AGS	1,328 C	C
51.	625005	Makawao Intermediate School			
		Design and construct cafetorium, ground and site improvements.			
		DESIGN			112
		TOTAL FUNDING	AGS	C	112 C
EDN407 - Public Libraries					
52.	032-1	Pearl City Regional Library Expansion			
		Expand main reading area to accommodate additional books and material. Regional library serves as resource library for seven community libraries in the West Oahu Library District.			
		CONSTRUCTION		782	
		EQUIPMENT		55	
		TOTAL FUNDING	AGS	837 C	C
53.	043-1	Salt Lake/Moanalua			
		Land acquisition and construction of a facility with temperature humidity and acoustical controls to provide library services to the community of Salt Lake/Moanalua and adjacent communities.			
		LAND			400
		CONSTRUCTION			1,500
		EQUIPMENT			100
		TOTAL FUNDING	AGS	C	2,000 C
54.	051-3	Kahului Library, Maui			
		Expansion and renovation of library to serve as regional library for Maui District. Expansion of main reading and book stack area.			
		CONSTRUCTION		575	381

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		EQUIPMENT		75	
		TOTAL FUNDING	AGS	650 C	381 C
55.	070-4	Hawaii Regional Library, Hilo, Hawaii			
		Expansion to include meeting room and additional reading area of library. Present library does not have a meeting room and regional library needs additional area for book storage and reading areas. Plans and design completed.			
		DESIGN		110	
		TOTAL FUNDING	AGS	110 C	C
56.	085-4	Kailua Kona Library, Hawaii			
		Facility to serve the community of Kailua and adjacent area. Also serve as a sub regional library for island of Hawaii; temperature humidity and acousitcal controls.			
		DESIGN		133	
		TOTAL FUNDING	AGS	133 C	C
57.	085-11	Public Libraries			
		Removal of asbestos materials in public libraries.			
		PLANS		60	
		LAND		536	
		TOTAL FUNDING	AGS	596 C	C
UOH101 - Instruction - UOH, Manoa					
57A.	006	Bilger Hall Renovations			
		University of Hawaii, Manoa Campus			
		Renovations and additions to Bilger Hall to refurbish old, obsolete facilities constructed in 1952; to modernize facilities; to meet health and safety requirements; and to make it accessible to the physically handicapped. Relocation of the occupants, including minor renovation to temporary quarters during construction.			
		DESIGN			1
		CONSTRUCTION			6,431
		TOTAL FUNDING	AGS	C	6,432 C
57B.	022	George Hall Renovations			
		Renovations to accommodate the School of Travel Industry Management and departments of speech and communications including improvements to lighting, acoustics, ventilation and circulation systems. Equipment and furniture for the video/audio facility.			

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		DESIGN			25
		EQUIPMENT			225
		TOTAL FUNDING	AGS	C	250 C
58.	078	School of Architecture Facility			
		Design, construction and equipping of facilities for the School of Architecture.			
		DESIGN		94	1
		CONSTRUCTION			3,199
		EQUIPMENT			1
		TOTAL FUNDING	AGS	94 C	3,201 C
58A.	043	Agricultural Sciences Facilities, Phase IIA			
		Design, construction and furniture and equipment for facilities for the Department of Agronomy and Soil Science, & Agricultural Services Center. Additional work to modify and upgrade the building humidity control. Equipment and utility service systems and to provide equipment noise abatement.			
		DESIGN			30
		CONSTRUCTION			270
		TOTAL FUNDING	AGS	C	300 C
59.	039	Medical School Development Kuakini Hospital, Phase II			
		Development of facilities for a 4-year medical school at community hospitals in accordance with long-range development plans and affiliation agreements.			
		DESIGN			5
		CONSTRUCTION			434
		EQUIPMENT			120
		TOTAL FUNDING	AGS	C	559 C
60.	049	Swimming Pool Complex, Phase II			
		Design, construction, furniture and equipment for the swimming pool complex, phase II.			
		DESIGN		30	
		CONSTRUCTION		250	
		TOTAL FUNDING	AGS	280 C	C
61.	068	Old Quad Area Restroom Facilities			
		Replacement of restroom facilities removed from the business administration complex and other improvements.			
		DESIGN			1
		CONSTRUCTION			648
		TOTAL FUNDING	AGS	C	649 C

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
61A.	082	Castle Memorial Annex Building Replacement			
		Design, construction and equipment for replacement of Castle Memorial Annex Building destroyed by fire in 1984.			
		DESIGN			46
		CONSTRUCTION			468
		EQUIPMENT			46
		TOTAL FUNDING	AGS	C	560 C
62.	080	Kuykendall Hall Renovations			
		Renovations to Kuykendall Hall classroom wing to improve ventilation, acoustics, lighting, safety and aesthetic environment.			
		DESIGN		127	
		CONSTRUCTION			1,920
		TOTAL FUNDING	AGS	127 C	1,920 C
UOH102 - Organized Research - UOH, Manoa					
62A.	131	Mauna Kea Observatory Access Road, Hawaii, Phase I			
		Access road improvements from Hale Pohaku to the summit including pavement, drainage system, stabilization of embankment and shoulders, and installation of guardrails and reflectors.			
		(Funds to be expended by the Department of Transportation).			
		DESIGN			1
		CONSTRUCTION			5,757
		TOTAL FUNDING	TRN	C	3,941 C
			TRN	T	1,817 T
63.	155	MKO, Mid-Level Facilities, Phase II			
		Design, construction and equipment for additional housing facilities at Hale Pohaku for observatory personnel.			
		DESIGN		76	
		CONSTRUCTION		986	
		EQUIPMENT		95	
		TOTAL FUNDING	AGS	1,157 E	E
64.	136	Lyons Arboretum, Oahu			
		Plans, design and construction for improvements to enhance arboretum program.			
		PLANS		1	
		LAND		1	
		DESIGN		10	
		TOTAL FUNDING	UOH	12 C	C

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UOH106 - Institutional Support - UOH, Manoa				
65.	242	Traffic Circulation Improvements, Makai Campus, Phase I		
		Design and construction of a permanent road system to facilitate pedestrian and vehicular traffic circulation from parking structure and housing areas to Waiialae Avenue. The road system shall include restroom and lighting facilities for adjacent areas.		
		DESIGN	35	
		CONSTRUCTION	1,565	
		TOTAL FUNDING	1,600 C	C
66.	250A	Modifications to Existing and/or Add. of New Facilities to Meet HOSHA, Phase E3		
		Design and construction of new hazardous waste facility.		
		DESIGN	30	
		CONSTRUCTION	298	
		TOTAL FUNDING	328 C	C
67.	250B	Modifications to Existing and/or Add. of New Facilities to Meet HOSHA, Phase E4		
		Design and construction of removal of asbestos and other hazards at Hamilton Library.		
		DESIGN	15	
		CONSTRUCTION	157	
		TOTAL FUNDING	172 C	C
68.	250C	Modifications to Existing and/or Add. of New Facilities to Meet HOSHA, Phase E5		
		Design and construction of emergency lighting, fire exit doors system and second exit stairway extension at Kuykendall Hall.		
		DESIGN		15
		CONSTRUCTION		193
		TOTAL FUNDING	AGS	208 C
69.	250D	Modifications to Existing and/or Add. of New Facilities to Meet HOSHA, Phase F1		
		Design and construction of emergency lighting, sprinkler/smoke detector system, and safety eye wash stations at Edmondson Hall.		
		DESIGN		14
		CONSTRUCTION		143
		TOTAL FUNDING	AGS	157 C

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
70.	250E	Modifications to Existing and/or Add. of New Facilities to Meet HOSHA, Phase F2			
		Design and construction of fume hood system modifications at HIG Building.			
		DESIGN			10
		CONSTRUCTION			83
		TOTAL FUNDING	AGS	C	93 C
71.	250F	Modifications to Existing and/or Add. of New Facilities to Meet HOSHA, Phase F3			
		Design and construction of fume hood system modifications at Snyder Hall.			
		DESIGN			6
		CONSTRUCTION			36
		TOTAL FUNDING	AGS	C	42 C
72.	255A	Mod. to Existing Fac. for the Physically Handicapped, Phase A Ext, Part II			
		Design and construction of handicapped ramp at Dean Hall.			
		DESIGN		2	
		CONSTRUCTION		12	
		TOTAL FUNDING	AGS	14 C	C
73.	255B	Mod. to Existing Fac. for the Physically Handicapped, Phase A Ext, Part IIB			
		Design and construction of handicapped chair lift at Gartley Hall.			
		DESIGN		3	
		CONSTRUCTION		21	
		TOTAL FUNDING	AGS	24 C	C
74.	255C	Mod. to Existing Fac. for the Physically Handicapped, Phase A Ext, Part IIC			
		Design and construction of improvements for a pathway between Campus Center and Andrews Amphitheatre.			
		DESIGN		7	
		CONSTRUCTION		56	
		TOTAL FUNDING	AGS	63 C	C
75.	255D	Mod. to Existing Fac. for the Physically Handicapped, Phase A Ext, Part IID			
		Design and construction of improvements for a pathway between Porteus Hall and Hawaii Hall.			
		DESIGN		3	
		CONSTRUCTION		18	
		TOTAL FUNDING	AGS	21 C	C
76.	255E	Mod. to Existing Fac. for the Physically Handicapped, Phase A Ext, Part IIE			
		Design and construction of ramp near the Post Office Building.			

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		DESIGN		10	
		CONSTRUCTION		68	
		TOTAL FUNDING	AGS	78 C	C
77.	255F	Mod. to Existing Fac. for the Physically Handicapped, Phase C1			
		Design and construction of entrance and restroom modifications at Food Service and Technology Building.			
		DESIGN			2
		CONSTRUCTION			8
		TOTAL FUNDING	AGS	C	10 C
78.	255G	Modifications to Existing Facilities for the Physically Handicapped, Phase C2			
		Design and construction of entrance and restroom modifications at Henke Hall.			
		DESIGN			1
		CONSTRUCTION			6
		TOTAL FUNDING	AGS	C	7 C
79.	255H	Modifications to Existing Facilities for the Physically Handicapped, Phase C3			
		Design and construction of ramps at George Hall Annexes #1 to #9.			
		DESIGN			2
		CONSTRUCTION			9
		TOTAL FUNDING	AGS	C	11 C
80.	255I	Modifications to Existing Facilities for the Physically Handicapped, Phase C4			
		Design and Construction of Ramp at Student Special Services Building			
		DESIGN			1
		CONSTRUCTION			4
		TOTAL FUNDING	AGS	C	5 C
81.	255J	Modifications to the Existing Facilities for the Physically Handicapped, Phase C5			
		Design and construction of entrance and restroom modifications at Student Services Building			
		DESIGN			3
		CONSTRUCTION			23
		TOTAL FUNDING	AGS	C	26 C
82.	255K	Modifications to Existing Facilities for the Physically Handicapped, Phase C6			
		Design and construction of restroom modifications at Bachman Hall			
		DESIGN			2
		CONSTRUCTION			14
		TOTAL FUNDING	AGS	C	16 C

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				APPROPRIATIONS (IN 000'S)	
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83.	255M	Modifications to Existing Facilities for the Physically Handicapped, Phase C8			
		Design and construction of entrance and restroom modifications at Drama Buildings #1 and #2			
		DESIGN			2
		CONSTRUCTION			11
		TOTAL FUNDING	AGS	C	13 C
84.	255N	Modifications to Existing Facilities for the Physically Handicapped, Phase C9			
		Design and construction of restroom modifications at Makai Campus #1, #11, and #12			
		DESIGN			2
		CONSTRUCTION			8
		TOTAL FUNDING	AGS	C	10 C
85.	255O	Modifications to Existing Facilities for the Physically Handicapped, Phase C10			
		Design and construction of sidewalk curbcut and ramp entrance modifications at Wist Hall Annex No. 1			
		DESIGN			1
		CONSTRUCTION			4
		TOTAL FUNDING	AGS	C	5 C
86.	255P	Modifications to Existing Facilities for the Physically Handicapped, Phase C11			
		Design and construction of ramp, restroom and fire alarm modifications at Castle Memorial Hall			
		DESIGN			3
		CONSTRUCTION			28
		TOTAL FUNDING	AGS	C	31 C
87.	255Q	Modifications to Existing Facilities for the Physically Handicapped, Phase C12			
		Design and construction of ramp, restroom and fire alarm modifications at University Elementary School			
		DESIGN		3	
		CONSTRUCTION		34	
		TOTAL FUNDING	AGS	37 C	C
88.	2551	Modifications to Existing Facilities for the Physically Handicapped, Phase C7			
		Design and construction of ramp at Miller Hall.			
		DESIGN			3
		CONSTRUCTION			26
		TOTAL FUNDING	AGS	C	29 C

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				FISCAL M YEAR O 1986-87 F
89.	257A	Energy Conservation Modifications, Phase IIIA		
		Design and construction of A/C system conversion for rooms 152 and 252, Bilger Hall (to supplement Federal/State matching funds for energy conservation measures).		
		DESIGN		10
		CONSTRUCTION		105
		TOTAL FUNDING	PED	115 C
90.	257B	Energy Conservation Modifications, Phase IIIB		
		Design and construction of separate A/C system for training room and lecture room, physical education facilities to supplement Federal/State matching funds for energy conservation measures.		
		DESIGN		5
		CONSTRUCTION		55
		TOTAL FUNDING	PED	60 C
91.	257C	Energy Conservation Modifications, Phase IIIC		
		Design and construction of chilled water loop and microcomputer control at Marine Sciences Building to supplement Federal/State matching funds for energy conservation measures.		
		DESIGN		17
		CONSTRUCTION		53
		TOTAL FUNDING	PED	70 C
92.	257D	Energy Conservation Modifications, Phase IIID		
		Design and construction of A/C controls and monitoring system for Ahu's for Holmes Hall, Biomedical Sciences, St. Johns Lab, Astronomy Facilities, Bilger Hall, Watanabe Hall, and Hamilton Library (To supplement Federal/State matching funds for energy conservation measures).		
		DESIGN		5
		CONSTRUCTION		55
		TOTAL FUNDING	PED	60 C
93.	257E	Energy Conservation Modifications, Phase IIIE		
		Design and construction of A/C controls and monitoring system for Ahu's at Biomedical Sciences Building (To supplement Federal/State matching funds for energy conservation measures).		
		DESIGN		3

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		CONSTRUCTION		27	
		TOTAL FUNDING	PED	30 C	C
94.	257F	Energy Conservation Modifications, Phase IIIF			
		Design and construction of A/C controls and monitoring system for Ahu's at Agricultural Sciences, Phase IIA (To supplement Federal/State matching funds for energy conservation measures).			
		DESIGN		5	
		CONSTRUCTION		55	
		TOTAL FUNDING	PED	60 C	C
95.	257G	Energy Conservation Modifications, Phase IVA			
		Design and construction of chilled water loop and microcomputer controls at Keller Hall/Physical Sciences Building (To supplement Federal/State matching funds for energy conservation measures).			
		DESIGN			21
		CONSTRUCTION			214
		TOTAL FUNDING	PED	C	235 C
96.	257H	Energy Conservation Modifications, Phase IVB			
		Design and construction of microcomputer controls at Sakamaki Hall (To supplement the Federal/State matching funds for energy conservation measures).			
		DESIGN			5
		CONSTRUCTION			55
		TOTAL FUNDING	PED	C	60 C
97.	257I	Energy Conservation Modifications, Phase IVC			
		Design and construction of microcomputer controls at Business Administration Building (To supplement Federal/State matching funds for energy conservation measures).			
		DESIGN			3
		CONSTRUCTION			32
		TOTAL FUNDING	PED	C	35 C
98.	257J	Energy Conservation Modifications, Phase IVD			
		Design and construction of microcomputer controls at Law School (to supplement Federal/State matching funds for energy conservation measures).			
		DESIGN			4
		CONSTRUCTION			41
		TOTAL FUNDING	PED	C	45 C

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99.	257K	Energy Conservation Modifications, Phase IVE			
		Design and construction of microcomputer controls at Porteus Hall (To supplement Federal/State matching funds for energy conservation measures).			
		DESIGN			3
		CONSTRUCTION			32
		TOTAL FUNDING	PED	C	35 C
100.	257L	Energy Conservation Modifications, Phase IVF			
		Design and construction of campus-wide night lights replacement (To supplement Federal/State matching funds for energy conservation measures).			
		DESIGN			9
		CONSTRUCTION			81
		TOTAL FUNDING	PED	C	90 C
101.	273A	Sakamaki Hall, Ventilation of Vault, Manoa Campus			
		Design and construction of ventilation system for vault on the ground floor of Sakamaki Hall for Admissions and Records Office.			
		DESIGN		3	
		CONSTRUCTION		12	
		TOTAL FUNDING	AGS	15 C	C
102.	273B	Korean Studies Center, Air Conditioning of Third Floor, Manoa Campus			
		Design and construction of air conditioning system for the third floor of the Korean Studies Center.			
		DESIGN		13	
		CONSTRUCTION		75	
		TOTAL FUNDING	AGS	88 C	C
103.	273C	Keller Hall Renovations for Computer Rooms, Manoa Campus			
		Design, construction and equipping of renovations to second floor of Keller Hall for computer rooms.			
		DESIGN		21	
		CONSTRUCTION		130	
		EQUIPMENT		30	
		TOTAL FUNDING	AGS	181 C	C

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104.	273D	Business Admin Complex, Air Conditioning System for Computer Rooms, Manoa			
		Design and construction of air conditioning system for computer rooms in E Tower of the Business Administration Complex.			
		DESIGN		10	
		CONSTRUCTION		58	
		TOTAL FUNDING	AGS	68 C	C
105.	273E	Orvis Auditorium, Refurbishing, Manoa Campus			
		Design and construction of minor refurbishing to Orvis Auditorium in the Music Complex.			
		DESIGN		8	
		CONSTRUCTION		40	
		TOTAL FUNDING	AGS	48 C	C
106.	273F	Student Health Center, Complete Air Conditioning System, Manoa Campus			
		Design and construction of completion of air conditioning system at the Student Health Center.			
		DESIGN			17
		CONSTRUCTION			100
		TOTAL FUNDING	AGS	C	117 C
107.	273G	Miller Hall, Air Conditioning Rooms 1, 2, 3, and 3A, Manoa Campus			
		Design and construction of air conditioning system for rooms 1, 2, 3, and 3A in Miller Hall for the Department of Human Resources.			
		DESIGN			8
		CONSTRUCTION			47
		TOTAL FUNDING	AGS	C	55 C
108.	273H	Webster Hall, Air Conditioning for Computer Rooms, Manoa Campus			
		Design and construction of air conditioning system for computer rooms for the School of Nursing.			
		DESIGN			3
		CONSTRUCTION			12
		TOTAL FUNDING	AGS	C	15 C
109.	273I	Marine Sciences Building, Replace Auditorium Seats, Manoa Campus			
		Replacement of seating in two auditoriums in the Marine Sciences Building.			
		DESIGN			7
		CONSTRUCTION			75
		TOTAL FUNDING	AGS	C	82 C

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110.	273J	Holmes Hall, Renovation for Engineering Shop, Manoa Campus			
		Design and construction of renovations to the ground floor of Holmes Hall for engineering shop.			
		DESIGN			4
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	24 C
111.	273K	Student Services Building Renovations, Manoa Campus			
		Design, construction and equipping of renovations to Student Services Building.			
		DESIGN			8
		CONSTRUCTION			63
		EQUIPMENT			8
		TOTAL FUNDING	AGS	C	79 C
112.	273L	Speech Communications Research Laboratory, Manoa Campus			
		Design, construction and equipping of speech communication research laboratory for the Department of Speech.			
		DESIGN			4
		CONSTRUCTION			18
		EQUIPMENT			6
		TOTAL FUNDING	AGS	C	28 C
113.	274A	New Transformer, EWC-UHM-HECO Substation, Manoa Campus			
		Installation of new 10 MVA transformer at EWC-UHM-HECO substation and related work.			
		DESIGN		100	
		CONSTRUCTION		1,564	
		TOTAL FUNDING	AGS	1,664 C	C
114.	274B	Old Swimming Pool Demolition, Manoa Campus			
		Demolition of old swimming pool at the Makai Manoa Campus.			
		DESIGN			13
		CONSTRUCTION			87
		TOTAL FUNDING	AGS	C	100 C
115.	274C	Crawford Hall Area, Site Improvements, Manoa Campus			
		Design and construction of site improvements in the Crawford Hall area to facilitate pedestrian circulation, to improve health and safety, and, to enhance the aesthetic environment.			
		DESIGN			15

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		CONSTRUCTION			105
		TOTAL FUNDING	AGS	C	120 C
116.	274D	Water Supply System Improvements, Phase I, Manoa Campus			
		Design and construction of Phase I of water supply system improvements to provide improved fire protection, to provide adequate and reliable water supply to all facilities, and to provide for more efficient management of water resources.			
		DESIGN			18
		CONSTRUCTION			132
		TOTAL FUNDING	AGS	C	150 C
117.	274E	Campus-Wide Security System Improvements, Phase I, Manoa Campus			
		Design and construction of Phase I of campus-wide security system improvements including illumination, fencing and gates and alarms.			
		DESIGN			18
		CONSTRUCTION			112
		TOTAL FUNDING	AGS	C	130 C
UOH211 - Instruction - UOH, Hilo					
118.	330	Hawaii CC Relocation, Phase IIA University of Hawaii at Hilo			
		Design, construction, furniture and equipment for the incremental relocation of Hawaii Community College programs to the UH Hilo Campus.			
		DESIGN			75
		CONSTRUCTION			3,403
		TOTAL FUNDING	AGS	C	3,478 C
119.	337	Renovation of College Hall C University of Hawaii at Hilo			
		Design, construction, furniture and equipment to improve College Hall C to provide new space to accommodate changing and expanding programs.			
		DESIGN			10
		CONSTRUCTION			928
		EQUIPMENT			85
		TOTAL FUNDING	AGS	C	1,023 C
120.	LH0007	University of Hawaii at Hilo			
		Design and construction for aquaculture program.			
		DESIGN		9	
		CONSTRUCTION		90	

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		EQUIPMENT		1	
		TOTAL FUNDING	AGS	100 C	C
UOH215 - Student Services - UOH, Hilo					
	121.	Student Housing Facilities - University of Hawaii at Hilo			
		Design, construction and equipping of a new mauka campus dormitory with dining and other community facilities.			
		DESIGN			1,100
		TOTAL FUNDING	AGS	C	1,100 C
UOH301 - Instruction - Honolulu Community College					
	122.	A22 Honolulu CC - Heavy Equipment Shop Including Site Development			
		Design, construction, furniture and equipment to provide shops, classrooms, specialized facilities and offices for the diesel mechanics programs and parking lot, including general utilities, street lighting and landscaping.			
		DESIGN		48	
		CONSTRUCTION		1,890	
		EQUIPMENT			457
		TOTAL FUNDING	AGS	1,938 C	457 C
	123.	A23 Instruction - Honolulu Community College			
		Renovation of building 803 to meet program requirements and provide for the expansion of programs.			
		DESIGN		92	
		CONSTRUCTION			1,500
		EQUIPMENT			153
		TOTAL FUNDING	AGS	92 C	1,653 C
UOH311 - Instruction - Kapiolani Community College					
	124.	B31 Kapiolani CC, Diamond Head - Buildings A, C and Site Preparation			
		Design, construction, furniture and equipment for developing facilities including site work, roadways, utilities and buildings.			
		EQUIPMENT		936	
		TOTAL FUNDING	AGS	936 C	C
	125.	B32 Kapiolani CC, Diamond Head - Bldgs F, G and Site Prep., Incl. Roadway Imprvmnts			
		Design, construction, furniture and equipment for developing facilities including site work, roadways, utilities, and buildings.			
		DESIGN		15	670

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		CONSTRUCTION		9,334	3,477
		EQUIPMENT		861	
		TOTAL FUNDING	AGS	10,210 C	4,147 C

UOH501 - Instruction - Maui Community College

126. M09 Maui Community College - Nursing Laboratory and Learning Skills Laboratory

Design, construction, furniture and equipment for laboratories, classrooms, special classrooms, offices and support spaces for the nursing and learning skills programs.

DESIGN		81	42
CONSTRUCTION			2,396
EQUIPMENT			384
TOTAL FUNDING	AGS	81 C	2,822 C

UOH505 - Institutional Support - Maui Community College

127. M-83A Maui CC - Energy Conservation Measures - Power Factor Correctors

Design, construction and equipment for conversion, modifications and improvements to existing facilities for energy conservation including the installation of electrical power factor correctors.

DESIGN		2	
CONSTRUCTION		28	
TOTAL FUNDING	PED	30 C	C

128. M-83B Maui CC - Energy Conservation Measures - Energy Management Control System

Design, construction and equipment for conversion. Modifications and improvements to existing facilities for energy conservation including the installation of a computerized energy load management system.

DESIGN		15	
CONSTRUCTION		85	
TOTAL FUNDING	PED	100 C	C

UOH903 - Institutional Sppt - UOH, System-Wide Sppt

129. 529A Removal, Encapsulation & Encl of Asbestos Materials, Statewide, UH, Phase VIA

Design and construction of removal of asbestos materials at Auxiliary Services Building.

DESIGN		1	
CONSTRUCTION		39	
TOTAL FUNDING	AGS	40 C	C

CAPITAL IMPROVEMENT PROJECTS

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			APPROPRIATIONS (IN 000'S)		
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130.	529B	Removal, Encapsulation & Encl of Asbestos Materials, Statewide, UH, Phase VIB			
		Design and construction of removal of asbestos materials at Keller Hall.			
		DESIGN		1	
		CONSTRUCTION		129	
		TOTAL FUNDING	AGS	130 C	C
131.	529C	Removal, Encapsulation & Encl of Asbestos Materials, Statewide, UH, Phase VIC			
		Design and construction of removal of asbestos materials at Moore Hall.			
		DESIGN		2	
		CONSTRUCTION		228	
		TOTAL FUNDING	AGS	230 C	C
132.	529D	Removal, Encapsulation & Encl of Asbestos Materials, Statewide, UH, Phase VID			
		Design and construction of removal of asbestos materials at Physical Sciences Building.			
		DESIGN		1	
		CONSTRUCTION		99	
		TOTAL FUNDING	AGS	100 C	C
Culture and Recreation					
LNR801 - Historical and Archaeological Places					
1. F10 Statewide Historic Preservation Program					
		Planning, appraisal and acquisition of significant sites threatened by development.			
		LAND		50	
		TOTAL FUNDING	LNR	50 C	C
2. F12 Russian Fort					
		Restoration of Russian Fort Elizabeth, a national historical landmark. Including incremental planning and restoration, stabilization, construction and interpretive features including public access and use of the facilities.			
		DESIGN		20	
		CONSTRUCTION			200
		TOTAL FUNDING	LNR	20 C	200 C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
3.	F13	Lapakahi North Kohala State Park Complex			
		Land acquisition, planning, research and incremental development of the North Kohala archaeological and historic sites which offers an opportunity for public interpretation of early Hawaiian fishing and farm system. Other features include Kamehameha's birthplace, Mookini Heiau and other features in the area.			
		PLANS		50	50
		LAND		25	
		TOTAL FUNDING	LNR	75 C	50 C
4.	F14	Kealakekua Bay			
		Incremental acquisition, planning, research and design for a park comprising the most important historic and archaeological place in the entire state, planning and research will be followed by park development, continued research and interpretive facilities.			
		PLANS		25	
		LAND		50	
		DESIGN		25	
		CONSTRUCTION			500
		TOTAL FUNDING	LNR	100 C	500 C
5.	F15	Royal Mausoleum-Nuuanu Petroglyphs			
		Plans and research of site including interpretation of historic and archaeological values, restoration of crypt, landscaping and other improvements.			
		PLANS		10	
		DESIGN		40	
		CONSTRUCTION			400
		TOTAL FUNDING	LNR	50 C	400 C
6.	F18	State Capitol			
		Landscaping, including replacement of sprinkler system and lawn improvement.			
		DESIGN		20	
		CONSTRUCTION		200	
		TOTAL FUNDING	LNR	220 C	C
7.	F21	Halekii-Pihana Heiau			
		Planning and research for archaeological features and their interpretation, landscaping, stabilization, restoration and construction of interpretive facilities as determined by planning.			
		PLANS		5	
		DESIGN		5	

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		CONSTRUCTION			100
		TOTAL FUNDING	LNR	10 C	100 C
8.	F23	Puu O Mahuka Heiau			
		Research and interpretation of existing park-landscaping improvement. Land acquisition to maintain the integrity of the site.			
		PLANS		5	
		DESIGN		5	
		CONSTRUCTION		75	75
		TOTAL FUNDING	LNR	85 C	75 C
9.	F24	Ulu Po Heiau			
		Plans/research-interpretation of existing park and proposed land acquisition for state park/preservation purposes.			
		PLANS		50	
		DESIGN			50
		TOTAL FUNDING	LNR	50 C	50 C
10.	F25	Washington Place			
		Replace existing equipment shed. The responsibilities of this project are currently limited to the grounds and associated facilities.			
		DESIGN			5
		CONSTRUCTION			50
		TOTAL FUNDING	LNR	C	55 C
11.	H18	Kamoa Point Archaeological Complex			
		Planning; archaeological research, stabilization, restoration and interpretation; development and protection.			
		PLANS		30	
		DESIGN		30	
		CONSTRUCTION		100	
		TOTAL FUNDING	LNR	160 C	C
UOH881 - Aquaria					
11A.		Waikiki Aquarium Improvements			
		Design and construction of improvements at the Waikiki Aquarium, including improvements to "Edge of the Reef" outdoor exhibit and Hawaiian Monk Seal research and exhibit pool.			
		DESIGN			50
		CONSTRUCTION			450
		TOTAL FUNDING	AGS	C	500 C

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CCA701 - Hawaii Public Broadcasting

12. HPBA05 HPBA Statewide Interactive, Closed-Circuit Educational Television System

Construct HPBA statewide, interactive, closed-circuit, educational television system using "Instructional Television Fixed Service" (ITFS) frequencies reserved for educational use by the Federal Communications Commission.

PLANS		80	
LAND		46	
DESIGN		234	
CONSTRUCTION			256
EQUIPMENT			3,630
TOTAL FUNDING	AGS	360 C	3,886 C

AGS881 - Performing and Visual Arts Events

12A. Maui Community Arts and Cultural Center

Land acquisition, plans, design and construction for a proposed community arts and cultural center at Maui Central Park. Funds are to be matched with County and private funds. (Funds to be expended by the county of Maui.)

PLANS			300
LAND			100
DESIGN			600
CONSTRUCTION			6,000
TOTAL FUNDING	SUB	A	7,000 A

LNR804 - Forest Recreation

13. D02 Forest Trails

Trails are cleared on an incremental basis. Trails are at least two feet wide and cleared for easy access. Trails provide: Remote outdoor recreation opportunities, access for control of fire and pests, route for rescue operations, etc.

PLANS		5	5
DESIGN		8	4
CONSTRUCTION		129	87
TOTAL FUNDING	LNR	142 C	96 C

14. D03 Forest Shelters

Develop selected sites to provide a place for wilderness picnicking, resting, and camping. May include any of the following: trail shelter units with table or comfort station, etc.

PLANS		4	3
DESIGN		2	

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		CONSTRUCTION		28	17
		TOTAL FUNDING	LNR	34 C	20 C
LNR806 - Parks Recreation					
	15.	F09 Ahukini Pier			
		Design and construction of restroom, lighting and associated utilities as needed.			
		DESIGN			50
		TOTAL FUNDING	LNR	C	50 C
	16.	F27 Heeia State Park			
		Planning and development of Matson Point, as a major park and educational/cultural center. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		PLANS		25	
		CONSTRUCTION		10	
		TOTAL FUNDING	LNR	35 C	C
	17.	F30 Nuuanu Pali State Park			
		Improvements for existing lookout area, including interpretative facilities. Park expansion to include the area between the Pali Golf Course and the existing overlook.			
		DESIGN		6	
		CONSTRUCTION		60	
		TOTAL FUNDING	LNR	66 C	C
	18.	F32 Iao Valley State Park			
		Incremental development per master plan lighting and improvement of water and sewage systems, including bringing electrical power to the park. Stream channel improvements.			
		PLANS		10	
		DESIGN		10	
		CONSTRUCTION			150
		TOTAL FUNDING	LNR	20 C	150 C
	19.	F33 Wailuku River State Park			
		Development of landscaping, lookouts, trails, picnicking and other facilities; development of an interpretive master plan and management plan.			
		PLANS			50
		DESIGN		10	
		CONSTRUCTION		50	
		TOTAL FUNDING	LNR	60 C	50 C

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
20.	F34	Lava Tree State Monument			
		Land acquisition to protect the integrity of the existing park from probable urban encroachment. Replace restroom. Install water system and generally refurbish park and interpretive planning/management planning followed by interpretive program.			
		DESIGN		10	
		CONSTRUCTION			150
		TOTAL FUNDING	LNR	10 C	150 C
21.	F37	Diamond Head			
		Anticipated improvements include trail development, parking, landscaping, and interpretive program. Expansion of restroom and other needs. Additional planning and park boundary survey is required.			
		LAND		40	
		DESIGN		8	
		CONSTRUCTION		80	
		TOTAL FUNDING	LNR	128 C	C
22.	F38	Hanauma Bay			
		Develop a management plan for managing natural resources and public use and review facility needs. Design and construct needed improvements.			
		PLANS		10	
		DESIGN		15	
		CONSTRUCTION		25	
		TOTAL FUNDING	LNR	50 C	C
23.	F46	Kokee/Waimea Canyon Complex			
		Includes Kokee and Waimea Canyon State Parks. Continued park development and replacement of older facilities, master plan for the improvement and management of the park. Addition of interpretive facilities includes possible renovation or demolition of existing recreation cabins on leased lots when leases expire.			
		DESIGN		60	20
		CONSTRUCTION		600	200
		TOTAL FUNDING	LNR	660 C	220 C
24.	F48	Keaiwa Heiau State Recreation Area			
		Improvements, and reconstruction of park facilities.			
		DESIGN		15	
		CONSTRUCTION			150
		TOTAL FUNDING	LNR	15 C	150 C

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25.	F50	Wahiawa Fresh Water Park			
		Incremental development of fresh water park per master plan.			
		DESIGN		5	
		CONSTRUCTION		30	
		TOTAL FUNDING	LNR	35 C	C
26.	F51	Makiki-Tantalus State Park			
		Incremental development per master plan. Renovations and improvements to existing Puu Ualakaa area.			
		DESIGN		25	
		CONSTRUCTION			250
		TOTAL FUNDING	LNR	25 C	250 C
27.	F53	Kalopa State Recreation Area			
		Improve and pave roadways and parking areas. Develop nature trails, general renovations and improvements.			
		DESIGN		10	
		CONSTRUCTION		160	
		TOTAL FUNDING	LNR	170 C	C
28.	F54	Wailua River State Park			
		Land acquisition of inholdings. Archaeological-biological research, development of interpretive program and facilities according to master plan incl. Fern Grotto, Lydgate Beach Marina and other areas along Wailua River. Update master plan and provide management plan. Reconstruction of park facilities.			
		DESIGN		2	10
		CONSTRUCTION		20	115
		TOTAL FUNDING	LNR	22 C	125 C
29.	F55	Waianapanapa State Park			
		Incremental acquisition & development of major park with outstanding scenic and historic values including picnic areas, campground and low cost vacation facilities. Development and management of the park, road reconstruction and lighting. This project is deemed necessary to qualify for federal aid financing or reimbursement.			
		LAND			20
		DESIGN		10	
		CONSTRUCTION		200	
		TOTAL FUNDING	LNR	210 C	20 C

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30.	F57	Kahana Valley State Park			
		Incremental development including historic restoration, water features and other recreation and cultural and heritage opportunities per master plan and adopted proposals for historical, environmental, cultural interpretation/ education programs. Planning and research by advisory board and others.			
		DESIGN		50	
		DESIGN		50	
		TOTAL FUNDING	LNR	100 C	C
31.	F58	Wailoa River State Recreation Area			
		Incremental development of major recreation area including landscaping per master plan. Review/update master plan. Land acquisition for new park entrance. Replacement-expansion of existing facilities.			
		DESIGN		25	
		CONSTRUCTION		300	
		TOTAL FUNDING	LNR	325 C	C
32.	F59	Hana Road State Waysides			
		Parkway development and plantings, grading and paving of parking areas, and improvements to waysides. Replace and improve water and sewage systems.			
		DESIGN			15
		CONSTRUCTION			160
		TOTAL FUNDING	LNR	C	175 C
33.	F60	Palaau State Park			
		Incremental development of major scenic park including picnic, camping and interpretive program. Construct storage building.			
		DESIGN			5
		CONSTRUCTION			55
		TOTAL FUNDING	LNR	C	60 C
34.	F61	Waahila Ridge State Recreation Area			
		Incremental development of a wooded recreation area for picnicking, camp ground, trail head, and supporting facilities. Refurbish existing facilities as needed.			
		DESIGN		15	
		CONSTRUCTION		150	
		TOTAL FUNDING	LNR	165 C	C

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					FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
35. F64 Mauna Kea Recreation Complex						
Plan, design and improve existing facilities at Pohakuloa.						
DESIGN					10	
CONSTRUCTION					100	
TOTAL FUNDING					LNR 110 C	C
36. F67 Poli Poli Springs State Recreation Area						
Plan to enlarge this mountain park. Replace existing water tank and rest-rooms. Provide additional overnight accommodations and regrade/pave the park entrance road.						
PLANS						20
DESIGN					5	
CONSTRUCTION					50	
TOTAL FUNDING					LNR 55 C	20 C
37. F69 Manuka State Wayside						
Interpretive program for existing wayside park with a plant collection in a Kipuka. Develop a new water system, restroom and widen entrance road.						
PLANS						30
DESIGN					25	
CONSTRUCTION					250	
TOTAL FUNDING					LNR 275 C	30 C
38. F70 Sand Island State Recreation Area						
Incremental development of beach park, plans and construction, including design and construction of a fishing pier. This project is deemed necessary to qualify for federal aid financing or reimbursement.						
DESIGN					20	12
CONSTRUCTION					800	120
TOTAL FUNDING					LNR 820 C	132 C
39. F71 Waimanalo Bay State Recreation Area						
Incremental development of beach park for camping and picnicking.						
DESIGN					10	
CONSTRUCTION					50	50
TOTAL FUNDING					LNR 60 C	50 C

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40. F72 Kaena Point State Park					
Incremental acquisition of private lands, development of beach parks from Makua to Mokuleia. Also includes funds for temporary management of shoreline areas to control existing public use. Includes upland peacock flats area as per master plan.					
		LAND			20
		DESIGN		30	
		CONSTRUCTION		300	
		TOTAL FUNDING	LNR	330 C	20 C
41. F73 Makena-Laperouse State Park					
Incremental acquisition of land as per conceptual plan. Protection of archaeological and biological features. Incremental development to include interpretation of these features as well as to provide facilities for recreation opportunities. This project is deemed necessary to qualify for federal-aid financing or reimbursement.					
		LAND			20
		DESIGN		25	
		CONSTRUCTION			250
		TOTAL FUNDING	LNR	25 C	270 C
42. F74 Haena Beach State Park					
Incremental development of historic and recreation opportunities including planning, research, design and construction of facilities and interpretive programs.					
		PLANS		25	25
		DESIGN		25	
		CONSTRUCTION			250
		TOTAL FUNDING	LNR	50 C	275 C
43. F75 Hapuna Beach State Park					
Plans and construction, including acquisition of land, in Wailea Bay area as per master plan.					
		LAND			20
		TOTAL FUNDING	LNR	C	20 C
44. F77 Mackenzie State Park					
Replacement of older facilities as needed.					
		DESIGN		10	
		CONSTRUCTION		100	
		TOTAL FUNDING	LNR	110 C	C

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45.	F78	Polihale State Park			
		Incremental development of existing beach park. Plans and renovation, relocation or removal of existing facilities in unstable sand dune areas.			
		PLANS		10	
		TOTAL FUNDING	LNR	10 C	C
46.	F80	Na Pali Coast State Park			
		Provision of camping, and hiking facilities. Protection and interpretation of historic and archaeological sites, management facilities for wilderness type park research of cultural and natural features, and planning for the management of these features and public use of the area.			
		PLANS			25
		DESIGN			10
		CONSTRUCTION			100
		TOTAL FUNDING	LNR	C	135 C
47.	F81	Papalaua-Kaanapali Waysides & Beautification			
		Incremental development and renovation of wayside parks and beautification of scenic highway from Ukumehame to Kaanapali. Existing parks include Wahikuli, Papalaua and Launiupoko waysides.			
		DESIGN		10	
		CONSTRUCTION		100	
		TOTAL FUNDING	LNR	110 C	C
48.	F83	Aiea Bay			
		Background investigation and planning for conversion of Aiea Bay into "Rainbow Bay - A Kokua Concept" as requested by the Pearl Harbor task force. Funding included for anticipated development of land area bordering Aiea Bay. Maximum of 40 acres available. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		DESIGN		30	
		CONSTRUCTION			450
		TOTAL FUNDING	LNR	30 C	450 C
48A.		Aiea Bay State Recreation Area			
		Design and construction of a Hawaii Veteran's Hall and Peace Garden at Aiea Rainbow Bay.			
		DESIGN			50

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		CONSTRUCTION			100
		TOTAL FUNDING	LNR	C	150 C
49.	F85	Aina Moana State Recreation Area			
		Improvements to existing park including additional landscaping, and completion of storage building.			
		DESIGN		3	
		CONSTRUCTION		15	
		TOTAL FUNDING	LNR	18 C	C
50.	F88	Kaiaka Point			
		Development of beach park at Kaiaka as per master plan. Includes plan alterations for a maintenance building and overflow parking area.			
		DESIGN		15	
		CONSTRUCTION		160	
		TOTAL FUNDING	LNR	175 C	C
51.	H45	Sacred Falls State Park			
		Plans and construction for incremental development of park facilities as per master plan.			
		DESIGN			10
		CONSTRUCTION			500
		TOTAL FUNDING	LNR	C	510 C
52.	H47	Kona Airport Park			
		Incremental design and construction for shoreline park development as determined by master plan. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		PLANS		5	
		DESIGN		10	
		CONSTRUCTION		50	50
		TOTAL FUNDING	LNR	65 C	50 C
53.	H70	Malaekahana Beach Park			
		Planning funds for retaining or amending master plan, research, interpretive planning and studies, development design and construction as determined by plan. This project is deemed necessary to qualify for federal-aid financing or reimbursement. Includes possible renovation of existing improvements for park purposes.			
		PLANS		25	
		DESIGN		60	
		CONSTRUCTION		125	600
		TOTAL FUNDING	LNR	210 C	600 C
TRN801 - Ocean-Based Recreation					

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54.	O10	Keehi Boat Harbor, Oahu			
		Design and installation of electrical outlets and related improvements.			
		DESIGN		5	
		CONSTRUCTION		180	
		TOTAL FUNDING	TRN	185 D	D
55.	O20	Ala Wai Boat Harbor Improvements, Oahu			
		Lighting system modifications, berthing facilities, utilities and other improvements.			
		DESIGN		55	
		CONSTRUCTION		175	475
		TOTAL FUNDING	TRN	230 D	475 D
56.	O30	Heeia-Kea Boat Harbor, Oahu			
		Expansion and improvements to Heeia-Kea boat harbor. This project qualifies for federal aid financing/reimbursement.			
		PLANS		60	
		TOTAL FUNDING	TRN	60 D	D
57.	O40	Haleiwa Boat Harbor, Oahu			
		Berthing facilities, loading dock, and other improvements.			
		DESIGN		65	
		CONSTRUCTION			560
		TOTAL FUNDING	TRN	65 D	560 D
57A.	O50	Waianae Boat Harbor, Oahu			
		Install electrical outlets on Piers B and C.			
		DESIGN			10
		CONSTRUCTION			190
		TOTAL FUNDING	TRN	D	200 D
58.	01K	Nawiliwili Boat Harbor, Kauai			
		Berthing facilities, loading dock, paving, utilities and other improvements.			
		CONSTRUCTION		720	
		TOTAL FUNDING	TRN	720 D	D
59.	01S	Statewide Improvements to Boating Fac.			
		Improvements to existing boat harbors and boat refuge areas.			
		DESIGN		10	10
		CONSTRUCTION		90	90
		TOTAL FUNDING	TRN	100 D	100 D

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60.	02H	Honokohau Boat Harbor, Hawaii			
		Incremental development of Honokohau Boat Harbor including berthing facilities and backup area improvements.			
		DESIGN		70	
		CONSTRUCTION			645
		TOTAL FUNDING	TRN	70 D	645 D
61.	02S	Statewide Sewage System Improvement to Boats Fac.			
		Incremental development of sewage system for boating facilities and other improvements.			
		DESIGN		60	
		CONSTRUCTION			465
		TOTAL FUNDING	TRN	60 D	465 D
61A.	03S	Statewide Boat Launching Fac. Program			
		Plan, construct and improve boat launching facilities throughout the state at existing and new sites.			
		DESIGN			85
		CONSTRUCTION			540
		TOTAL FUNDING	TRN	D	625 D
62.	13K	Kikiaola Breakwater Reconstruction			
		Reconstruction of damaged breakwater and other improvements. This project qualifies for federal aid financing/reimbursement.			
		DESIGN		50	
		CONSTRUCTION		410	
		TOTAL FUNDING	TRN	460 C	C
62A.		Waikaea Canal, Kapaa, Kauai			
		Design and construction of canal range lights and channel markers.			
		CONSTRUCTION			120
		TOTAL FUNDING	TRN	C	120 C
63.	13M	Improvements to Maalaea Boat Harbor, Maui			
		Paving, lighting, electrical facilities and other improvements.			
		DESIGN		15	
		CONSTRUCTION		90	
		TOTAL FUNDING	TRN	105 D	D
64.	24O	Ala Wai Breakwater			
		Reconstruction of Ala Wai breakwater and other improvements. This project qualifies for federal aid financing/reimbursement.			
		DESIGN		25	

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		CONSTRUCTION		335	
		TOTAL FUNDING	TRN	360 C	C
65.	16M	Relocation of the Vessel Carthaginian at Lahaina Harbor			
		Design and construction for relocation of the historic vessel Carthaginian.			
		DESIGN		40	
		CONSTRUCTION		190	
		TOTAL FUNDING	TRN	230 C	C
65A.	18M	Manele Boat Harbor, Lanai			
		Construct harbor agent's office.			
		DESIGN			10
		CONSTRUCTION			50
		TOTAL FUNDING	TRN	D	60 D
65B.	19H	Honokohau Boat Harbor Improvement, Hawaii			
		Safety improvements including paved walkway, a continuous barrier, catwalks, parking areas, fencing and other improvements.			
		DESIGN			100
		CONSTRUCTION			900
		TOTAL FUNDING	TRN	D	1,000 D
66.	17M	Pier Improvements at Lahaina Harbor			
		Design and construction for pier improvements at Lahaina Harbor.			
		DESIGN		40	
		CONSTRUCTION		240	
		TOTAL FUNDING	TRN	280 D	D
66A.	CJ	Boat Harbor and Launching Ramp at Kaulana, Hawaii			
		Design and construction of a new boat launching facility, including dredging and breakwater, and other related improvements; also included is the in-kind improvements for lease rental of lands. This project qualifies for Federal Aid/Reimbursement.			
		DESIGN			55
		CONSTRUCTION			245
		TOTAL FUNDING	TRN	C	300 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
AGS889 - Spectator Events and Shows - Aloha Stadium					
67.	B68	Corrosion Protection of the Structural Framing Element			
		Clean, repair, sandblast, and paint all badly corroded areas of the structural framing elements and correct the primary causes of the continuing corrosion.			
		DESIGN		150	
		CONSTRUCTION		2,202	
		TOTAL FUNDING	AGS	2,352 C	C
68.	B87	Renovation of Roof and Other Members of Aloha Stadium			
		Replace roofing with improved roofing system and repair, clean and paint other corroded members.			
		DESIGN			160
		CONSTRUCTION			2,455
		TOTAL FUNDING	AGS	C	2,615 C
69.	B88	Aloha Stadium Improvements			
		Renovate restrooms to increase women's capacity, improve scoreboard components and other miscellaneous improvements. (Men's restrooms should not be reduced.)			
		DESIGN			150
		CONSTRUCTION			1,660
		TOTAL FUNDING	AGS	C	1,810 C
70.	B89	Renovation of Metal Deck With Concrete Topping at Aloha Stadium			
		Replacement of existing structural metal decking and concrete topping with improved decking system for fixed stands, pedestrian bridges and spiral ramps.			
		DESIGN			130
		CONSTRUCTION			1,950
		TOTAL FUNDING	AGS	C	2,080 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
LNR809 - General Admin for Culture and Recreation					
71. F05 SCORP (State Comprehensive Outdoor Recreation Plan)					
Continuous updating of the state comprehensive outdoor recreation plan to qualify for federal grants under the land and water conservation fund. Also refine and implement the goals, objectives and policies of the Hawaii State Plan as provided in Chapter 226, Hawaii Revised Statutes. This product is deemed necessary to qualify for federal-aid financing or reimbursement.					
PLANS					
TOTAL FUNDING					
LNR					
C					
N					
100					
50 C					
50 N					
72. H08 Statewide Facilities for the Handicapped					
Construction of facilities and/or reconstruction of existing facilities to aid the handicapped.					
DESIGN					
15					
CONSTRUCTION					
150					
TOTAL FUNDING					
LNR					
165 C					
C					
73. H09 Statewide Minor Improvements					
Minor additions, renovations and improvements to park facilities.					
DESIGN					
10					
CONSTRUCTION					
100					
TOTAL FUNDING					
LNR					
110 C					
110 C					
Public Safety					
SOC403 - Kulani Correctional Facility					
1. CD8504 KCF Construct Residential & Program Facilities					
Plan, design, construct & equip program & residential facilities to accommodate the expansion of population at Kulani Correctional Facility.					
PLANS					
8					
DESIGN					
52					
CONSTRUCTION					
270					
EQUIPMENT					
24					
TOTAL FUNDING					
AGS					
60 C					
294 C					

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
SOC402 - High Security Facility					
1A. CD8702 High Security Facility-Additional Residency Unit and Supporting Facilities					
Design, construct and equip an additional 72 bed residency module and supporting facilities at the Halawa High Security Facility Branch.					
DESIGN					168
TOTAL FUNDING				AGS	168 C
SOC403 - Kulani Correctional Facility					
1B. CD7918 Kulani Correctional Facility Water System					
Plan, design, and construct a water system at the Kulani Correctional Facility to supplement the existing water storage facilities.					
CONSTRUCTION					545
TOTAL FUNDING				AGS	545 C
2. CD8507 Kulani Correctional Facility Lighting					
Plan, design, construct and equip a compound lighting system for the Kulani Correctional Facility.					
PLANS				3	
DESIGN				16	
CONSTRUCTION				40	
EQUIPMENT				48	
TOTAL FUNDING				AGS	107 C
SOC404 - Waiawa Correctional Facility					
3. CD8505 Waiawa Correctional Facility					
Convert expand the Waiawa Military Reservation (includes buildings, tunnel, and other improvements) into a correctional facility which will provide inmate care, education work training, agricultural, and other correctional programs.					
PLANS				50	
DESIGN				325	
CONSTRUCTION					2,500
EQUIPMENT					280
TOTAL FUNDING				AGS	375 C
SOC405 - Hawaii Community Correctional Center					
4. CD8506 Hawaii ISC/CCC Program					
Plan, design, construct and equip expanded facilities at Hawaii Community Correctional Center. Includes a jail in West Hawaii.					

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		PLANS		25	
		DESIGN		185	
		CONSTRUCTION			1,615
		EQUIPMENT			150
		TOTAL FUNDING	AGS	210 C	1,765 C

SOC407 - Oahu Community Correctional Center

5. CD8503 Oahu CCC Food Services

Renovate and expand the food services program at the Oahu CCC.

DESIGN		32	84
CONSTRUCTION		216	563
EQUIPMENT		200	300
TOTAL FUNDING	AGS	448 C	947 C

5A. Fire Safety Modifications at Oahu Community Correctional Center

Design, construction and equipment for renovation of the holding unit to meet fire safety standards.

DESIGN			3
CONSTRUCTION			25
EQUIPMENT			4
TOTAL FUNDING	AGS	C	32 C

5B. Oahu Community Corrections Center Land Acquisition

Purchase of the Better Brands property for OCCC expansion.

LAND			250
TOTAL FUNDING	AGS	C	250 C

SOC410 - Halawa Medium Security Facility

6. CD8514 Halawa Medium Security Facility

Construction of additional facilities to house 248 more inmates, and complete correctional program services.

CONSTRUCTION		11,500	
TOTAL FUNDING	AGS	11,500 C	C

SOC493 - General Administration-Confinement

7. 8203 Halawa Medium Security Facility Equipment

Equip the residential and program support functions at the Halawa Medium Security Facility to provide for residential security and correctional program services. (Funds should not be used for color television sets and other items not qualifying for CIP funds.)

EQUIPMENT		3,000	
TOTAL FUNDING	AGS	3,000 C	C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F

LNR810 - Prevention of Natural Disasters**8. J02 Halawa Stream Dredging**

Plans and construction of improvements to Halawa stream including clearing and disposal of dredged material. Funds to be supplemented by \$1,000,000 from City and County of Honolulu and others.

DESIGN		300	
CONSTRUCTION			3,700
TOTAL FUNDING	LNR	300 C	2,700 C
	LNR	S	1,000 S

DEF110 - Amelioration of Physical Disasters**9. A18 Army National Guard Armory, Pahala, Hawaii**

Planning and construction of a special designed armory facility of permanent steel and masonry type construction, and including all utilities, access road, parking areas, security fencing, and other supporting features. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

DESIGN		200	
CONSTRUCTION		1,300	
TOTAL FUNDING	AGS	580 C	C
	AGS	920 N	N

10. A19 Army National Guard Armory, Kohala, Hawaii

Planning and construction of a special design armory facility of permanent steel and masonry type construction, and including all utilities, access road, parking areas, security fencing, and other supporting features. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

DESIGN		200	
CONSTRUCTION		1,300	
TOTAL FUNDING	AGS	580 C	C
	AGS	920 N	N

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
11.	A29	Additional Improvements at the Deptl Admin Bldg & 100-Man Armory, & Engr Off			
		Planning and construction of additional improvements at the departmental administration building and 100-man armory for providing facilities for the joint staff of the Adjutant General's Office, the Recruiting and Retention Office, and the Hawaii Area Command to include administrative space, parking, landscaping, fencing, and other improvements. Relocating of engineering office.			
		EQUIPMENT		20	
		TOTAL FUNDING	AGS	20 C	C
12.	A31	Additional Improvements to National Guard Armories			
		Planning and construction of additional improvements at all National Guard armories to upgrade facilities to conform to current National Guard Bureau standards and criteria and to meet other unit requirements. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		DESIGN		30	30
		CONSTRUCTION		125	125
		TOTAL FUNDING	AGS	155 C	155 C
13.	A33	Army National Guard Amory, Kaunakakai Molokai, Hawaii			
		Planning and construction of a special designed permanent National Guard armory facility to include all utilities, access road, parking areas, and other supporting features required for occupancy. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		DESIGN		120	
		CONSTRUCTION			1,500
		TOTAL FUNDING	AGS	50 C	600 C
			AGS	70 N	900 N
14.	A37	Army National Guard Armory, Wailuku, Maui			
		Planning and construction of a major renovation to existing facility, including all utilities, access road, parking areas, security fencing, and other supporting features. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		DESIGN			190
		TOTAL FUNDING	AGS	C	80 C
			AGS	N	110 N

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
15.	A39	Army National Guard Armory, Hanapepe Kauai			
		Relocation and renovation of original armory with addition of a special designed armory facility of permanent steel and masonry type construction including all utilities, access road, parking areas, security fencing, and other supporting features. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		DESIGN		220	
		CONSTRUCTION		2,000	
		TOTAL FUNDING	AGS	850 C	C
			AGS	1,370 N	N
16.	A41	Modification of HawCom Emergency Operating Center			
		Design and renovation of present HawCom Emergency Operating Center in Battery 407, Diamond Head Crater, to provide minimum essential facilities for HawCom operations for military support to Civil Defense. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		DESIGN		76	
		CONSTRUCTION		600	
		TOTAL FUNDING	AGS	676 C	C
17.	C12	Upgrade of Disaster Warning and Communication Devices Statewide			
		Incremental upgrade of civil defense disaster warning and communications devices statewide due to inadequate warning coverage of many 20+ year old existing devices. This is a continuing program from year to year. Also the renovation and/or upgrade of damaged devices from natural and/or man-made disasters. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		PLANS		1	1
		LAND		1	1
		DESIGN		18	18
		CONSTRUCTION		380	380
		TOTAL FUNDING	AGS	210 C	210 C
			AGS	190 N	190 N

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

		APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO. TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
18.	C13 Additional Disaster Warning and Communications Devices, Statewide			
	Incremental installation of additional civil defense disaster warning sirens, other warning devices and communications equipment, statewide, to expand the coverage of warning system to keep pace with new developments, growth of communities & population shifts. This is a continuing program from year to year. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
	PLANS		1	1
	LAND		1	1
	DESIGN		38	38
	CONSTRUCTION		460	460
	TOTAL FUNDING	AGS	270 C	270 C
		AGS	230 N	230 N

19. C17 Additional Improvements for Birkhimer Emergency Operating Center

Planning and construction of additional improvements at Birkhimer Emergency Operating Center for which funds were not available in the original construction. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

CONSTRUCTION		80	
EQUIPMENT		70	
TOTAL FUNDING	AGS	150 C	C

Government-Wide Support

GOV100 - Office of the Governor

1. GO1 Project Adjustment Fund

To establish a contingency fund for project adjustment purposes subject to the provisions of the Appropriations Act (to be expended by Office of the Governor).

DESIGN		3,000	3,000
TOTAL FUNDING	GOV	3,000 C	3,000 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
PED103 - Statewide Plan and Coordination					
2.	HCD001	Kaka'ako Community Development District, Oahu			
		Plans, land, design and construction funds for planning, development and project costs, as defined in Chapter 206E, Hawaii Revised Statutes, for the Kakaako Community Development District. May be used to match federal and non-state funds, as may be available.			
		PLANS		10	
		LAND		10	
		DESIGN		10	
		CONSTRUCTION		16,970	
		TOTAL FUNDING	PED	17,000 C	C
LNR101 - Public Lands Management					
2A.	E58	Seawall Improvement, Waikiki			
		Plans, design and incremental construction of improvements to seawall including railings, rehabilitation of seawall, fences and other improvements necessary for the safe passage of the public over existing seawalls.			
		PLANS			10
		DESIGN			20
		CONSTRUCTION			160
		TOTAL FUNDING	LNR	C	190 C
AGS221 - Construction					
3.	A39	Kaunakakai Civic Center			
		Land acquisition, design and construction of a new State office building to accommodate various agencies.			
		DESIGN			200
		TOTAL FUNDING	AGS	C	200 C
4.	A48	Lihue Maint. & Service Facilities			
		Planning, design, and construction of maintenance and service facilities for DAGS programs.			
		PLANS			10
		TOTAL FUNDING	AGS	C	10 C
5.	A52	Hilo Maint. and Svc Complex			
		Site selection, land acquisition, design and construction of a maintenance and service complex for the Hilo area.			
		LAND			20
		TOTAL FUNDING	AGS	C	20 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
6.	A53	Molokai Maint. and Service Facility			
		Planning, land acquisition, design and development of a multi-agency maintenance facility with shop and storage facilities.			
		PLANS		16	10
		LAND		10	30
		TOTAL FUNDING	AGS	26 C	40 C
7.	A56	Makai Parking Garage			
		Design and construct a parking structure on Lot A to service the State office buildings in the area. Project to include landscaping, demolition, temporary alternative parking areas and related services during construction, and office space in the structure.			
		CONSTRUCTION		2,080	
		TOTAL FUNDING	AGS	2,080 D	D
8.	B27	Advanced Planning Statewide			
		Provide assistance to the public, State and Counties in matters relating to Public Works Division. It includes the preparation of reports, studies, inventories, reviews and performance of all necessary activities to carry out DAGS functions.			
		PLANS		140	140
		TOTAL FUNDING	AGS	140 C	140 C
9.	B28	Remodeling State Office Buildings			
		Design and construction of remodeling and upgrading State office buildings, statewide. This project will supplement funds from Act 1/81, item K-10 also includes equipment. Renovation of space in the old Federal Courthouse Building is included.			
		DESIGN		65	70
		CONSTRUCTION		425	450
		EQUIPMENT		30	35
		TOTAL FUNDING	AGS	520 C	555 C
10.	B41	State Capitol Improvements and Renovations			
		Improvements to the building systems including, air conditioning, office renovations, pool improvements, asbestos hazard mitigation, and other facilities improvements and renovations for the State Capitol.			
		DESIGN		118	95
		CONSTRUCTION		965	1,160
		TOTAL FUNDING	AGS	1,083 C	1,255 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
11.	B57	Kalanimoku Building A/C Improvement			
		This project includes the modifications to the Kalanimoku Building's air conditioning system to include the replacement of chillers, cooling towers, improvements to air distribution system, the modification of controls and the installation of an energy management and control system.			
		CONSTRUCTION		220	
		TOTAL FUNDING	AGS	220 C	C
12.	B58	Wailuku Court Buildings Renovation			
		Renovating the existing Circuit and District Court Buildings including minor renovations to the Wailuku State Office Building for office use by various state agencies.			
		CONSTRUCTION		1,007	
		EQUIPMENT		50	
		TOTAL FUNDING	AGS	1,057 C	C
13.	B59	Kekauluohi Building, Air Conditioning			
		Replace air conditioning equipment components subject to frequent repairs, and add new air conditioning system for the basement archives storage.			
		CONSTRUCTION		546	
		TOTAL FUNDING	AGS	546 C	C
14.	B77	Kekuanaoa Building Renovation, Phase 4			
		Design and construct alterations for new occupants of space vacated by the judiciary in the Kekuanaoa Building. Project includes renovation and remodeling of basement for office use and other misc. tie-ins with the buildings electrical HVAC, EMCS, and other systems.			
		CONSTRUCTION		520	
		TOTAL FUNDING	AGS	520 C	C
15.	B79	Hale Auhau, Renovation and Remodeling			
		Plan, design, and construct building renovations to modernize Hale Auhau. Includes demolition and renovation of a.c., lighting, electrical, and mechanical systems to correct existing deficiencies and for energy efficiency. Handicapped facilities and building alterations for new occupants will also be constructed. Includes connection to EMCS.			
		PLANS		20	
		DESIGN		309	
		CONSTRUCTION			4,015

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

		EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO. TITLE		FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
	EQUIPMENT			15
	TOTAL FUNDING	AGS	329 C	4,030 C
16.	B80 Washington Place Improvements			
	Design and construction to correct current code deficiencies and ground water seepage. Includes demolition, major rewiring, construction of a new stairway, drainage system, upgraded roofing system, and misc. structural and cosmetic work as necessary.			
	DESIGN		54	
	CONSTRUCTION		319	
	TOTAL FUNDING	AGS	373 C	C
17.	B82 Civic Center Communication Ductlines, Mauka Area, E.M.C.S.			
	Construct communication ductlines between Liliuokalani Building, Kinau Hale, the Capitol Building, and the Kalanimoku Building for data transmission.			
	DESIGN		21	
	CONSTRUCTION		154	
	TOTAL FUNDING	AGS	175 C	C
18.	B83 Kinau Hale Energy Monitoring and Control System			
	Design and installation of energy monitoring and control system to monitor and control lighting and air conditioning equipment for energy conservation.			
	DESIGN		12	
	CONSTRUCTION		105	
	TOTAL FUNDING	PED	117 C	C
19.	B84 Kamamalu Ceiling and Air Conditioning Renovation (Asbestos Mitigation)			
	The project will mitigate the asbestos hazard present in the ceilings within the Kamamalu building. The a.c. distribution system will be improved and new acoustical ceiling and lighting will be installed to replace the existing system demolished during asbestos mitigation.			
	DESIGN		97	
	CONSTRUCTION			1,593
	TOTAL FUNDING	AGS	97 C	1,593 C
20.	B85 Makai Access Ramp for the Capitol Building			
	Design and construction of a makai access ramp for the Capitol Building.			
	DESIGN		5	
	CONSTRUCTION		40	
	TOTAL FUNDING	AGS	45 C	C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
21.	B86	Asbestos Hazard Identification in State Buildings			
		Identify asbestos hazards in DAGS buildings - conduct study of each affected building, evaluate the danger level where asbestos is present, recommend the type of remedial action necessary, estimate cost of remedial work. Includes portion of design cost.			
		DESIGN			200
		TOTAL FUNDING	AGS	C	200 C
22.	B91	Records Storage Center Expansion at Shafter Flats, Oahu, Hawaii			
		Design and construct additional building area for records storage. Includes preliminary foundation work as required, off-site improvements, landscaping, paving, and other work necessary to complete the project.			
		DESIGN		150	
		CONSTRUCTION			1,500
		EQUIPMENT			80
		TOTAL FUNDING	AGS	150 C	1,580 C
23.	B93	Archive Storage Improvements, Shafter Flats			
		Provide temperature and humidity control for storage of film records. Project includes a.c. or refrigeration equip., enclosures, installation, electrical, mechanical, and structural work, and all other items necessary to complete the work. (Design and Construction)			
		DESIGN		21	
		CONSTRUCTION		169	
		TOTAL FUNDING	AGS	190 C	C
24.	B97	Washington Place Turn-around and Landscaping Improvements (Mauka Entry)			
		Construct a turn-around on Miller Street at Washington Place. Includes demolition, landscaping of a portion of the Washington Place frontage and driveway, reconstruction and repaving of portions of Miller Street.			
		DESIGN		25	
		CONSTRUCTION			146
		TOTAL FUNDING	AGS	25 C	146 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
25.	B98	Liliuokalani Building Addition and Renovation, and Air Conditioning			
		Design and construction of an extension to the Liliuokalani Building, renovation of existing areas, and upgrading the air conditioning system.			
		PLANS		40	
		DESIGN			215
		TOTAL FUNDING	AGS	40 C	215 C
26.	C04	Leeward Civic Center			
		Plans, land acquisition, design and construction of a Civic Center facility at a site to be selected in Waipahu.			
		PLANS		50	
		LAND		1,530	
		DESIGN			370
		CONSTRUCTION			225
		TOTAL FUNDING	AGS	1,580 C	595 C
27.	B66	Civic Center Irrigation System, Mauka Area			
		Plan, design, and construct a distribution system for caprock water (brackish) for irrigation use in the State Capitol complex. Includes study of feasibility of using non-potable well water for irrigation, well construction, design and construction of pumps and distribution system.			
		PLANS		30	
		TOTAL FUNDING	AGS	30 C	C
28.	B78	Signage, Sidewalks and Landscaping Improvements, State Capitol District			
		Design and construction of standardized signage and walkway and curb systems of the State Capitol district. Includes: conversion of selected sidewalks, curbs, paths, and other walks to create a strong sense of place and to improve the overall appearance of the Capitol district. Standardization of signs and street furniture as necessary and landscaping of various areas within the State Capitol is also included.			
		DESIGN		40	
		TOTAL FUNDING	AGS	40 C	C

SECTION 7. Part IV, Act 300, Session Laws of Hawaii 1985, is amended to read as follows:

(1) By adding a new Section to read:

"SECTION 226A. Provided that alternative sites for the Manoa Innovation Center, department of planning and economic development (PED

102), shall be assessed and plans for the two best alternative sites shall be included in any proposal for further funding by the legislature; provided also that all households within 1000 feet of the proposed Manoa site and alternative sites shall be notified of the plans for the Innovation Center and shall be allowed to have input into any proposed design of any structure."

(2) By adding a new Section to read:

"SECTION 229A. Provided that of the general obligation bond fund appropriated to Puu Pulehu Reservoir, department of land and natural resources (LNR 141), the sum of \$1,650,000 in fiscal year 1986-87 shall be expended only upon the determination that current efforts to repair the reservoir have been unsuccessful."

(3) By adding a new section to read:

"SECTION 226B. Provided that of the general obligation bond fund appropriation for Kewalo basin improvements, Oahu, department of transportation (TRN 305), the sum of \$1,490,000 in fiscal year 1986-87 may be expended only to supplant similar amounts that have been appropriated for this purpose in Section 7 of Act 285, Session Laws of Hawaii 1984, that have lapsed."

(4) By adding a new Section to read:

"SECTION 235A. Provided that of the general fund capital improvement appropriation for performing and visual arts event (AGS 881), the sum of \$7,000,000 in fiscal year 1986-87 shall be used for land acquisition, plans, design, and construction of the Maui Community Arts and Cultural Center; provided further that the funds shall be expended by the County of Maui; provided further that the funds shall be matched dollar for dollar with county and private funds; provided further that the market value of any donated land may be considered as matching funds from the county and private sector."

(5) By adding a new Section to read:

"SECTION 228D. Provided that of the general obligation bond fund appropriation for Waikaea Canal, Kapaa, Kauai, department of transportation (TRN 801), the sum of \$120,000 in fiscal year 1986-87 may be expended only to supplant similar amounts that have been appropriated for this purpose in Section 2, Act 287, Session Laws of Hawaii 1984, that have lapsed."

SECTION 8. Act 263, Session Laws of Hawaii 1982, Section 2, Item III-D-4, as amended by Act 301, Section 81, Session Laws of Hawaii 1983, is further amended to read as follows:

"4. Interstate Route H-2, Oahu 310,000
Plans and design for on and off ramps at Mililani Memorial Road.
Donations of land and money by private sources may be used in the
construction of this project."

SECTION 9. Section 2, Act 283, Session Laws of Hawaii 1983, is amended as follows:

(1) By amending Item III-H-1 to read:

"1. Kahuku Hospital, Oahu 124,440
Grant in aid for modernization and renovation of Rothwell Wing."

SECTION 10. Part V, Act 285, Session Laws of Hawaii 1984 Section 7, is amended as follows:

(1) By amending Item C-36 to read:

- "36. Interstate route H-1, East of Halawa I.C. to Middle street separation, Oahu. Incremental construction of eight freeway lanes, including Pearl Harbor, airport and Keehi Interchanges and the development, storage & distribution of nonpotable water to be used for irrigation purposes for this and other state highway projects. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

	FY 1983-84	FY 1984-85	FY 1983-85
Land	588		588
Design	951		951
Construction	17,995	23,970	41,965
Total Funding TRN	B	B	B
	C	C	C
	2,462D	3,153D	5,615D
	17,072J	20,817J	37,889J"

- (2) By amending Item C-47A, to read:
 "47A. Waimea-Kawaihae Road, Waiaka Stream Bridge & Approaches, Waimea, Hawaii. Replacement of Waiaka Stream Bridge and realignment of approaches. Unrequired design funds and supplemental special funds may be used for construction. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

	FY 83-84	FY 84-85	FY 83-85
Land			
Design		300	300
Construction			
Total Funding TRN	D	135D	135D
	N	165N	165N"

- (3) By amending Item H-18 to read:
 "18. Hanalei Recreational Pier, Hanalei, Kauai. Restoration of Hanalei recreational pier. This project is deemed necessary to qualify for federal aid financing or reimbursement.

	FY 1983-84	FY 1984-85	FY 1983-85
Design	5	5	10
Construction		600	600
Total Funding TRN	5C	605C	610C"

- (4) By amending Item H-18A to read:
 "18A. Makena-La Perouse State Park, Maui. Land acquisition for Makena-La Perouse State Park. May be used to match other non-state funds, as may be available. This project is deemed necessary to qualify for federal aid financing or reimbursement.

	FY 1983-84	FY 1984-85	FY 1983-85
Land		1,250	1,250
Total Funding	LNR C	1,250C	1,250C"

SECTION 11. Section 2, Act 287, Session Laws of Hawaii 1984, is amended as follows:

- (1) By amending Item III-C-16 to read:
 "16. Sand Island Park, Oahu \$150,000
 Funds for general improvements to existing camping grounds,

picnic areas, and shoreline facilities, and an additional parking lot. This project is deemed necessary to qualify for federal-aid financing or reimbursement."

(2) By amending Item V-C-1 to read:

"1. State beach parks \$2,500,000
Funds for acquisition of land for state beach park at Makena. This project is deemed necessary to qualify for federal-aid financing or reimbursements."

SECTION 12. Part VII, Act 300, Session Laws of Hawaii 1985, is amended as follows:

(1) By amending Section 253 to read:

"SECTION 253. Any law or any provisions of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all appropriations made to be expended in fiscal biennium 1985-87 which are unencumbered as of June 30, 1988, shall lapse as of that date; provided further that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement as denoted in Section 222 which appropriations in their entirety the Legislature hereby determines are necessary to qualify for federal aid financing and reimbursement."

(2) By amending Section 258 to read:

"SECTION 258. If general obligation bond proceeds have been allocated to an appropriation which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such appropriation, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other appropriations which may be satisfied from general obligation bond proceeds made in the same or any other act of the Legislature."

(3) By amending Section 265 to read:

"SECTION 265. Unrequired balances after the objectives of appropriations made in this Act for capital investment purposes from the general obligation bond fund have been met shall be transferred to the project adjustment fund appropriated in Part II and described in Part IV of this Act and shall be considered a supplementary appropriation thereto; provided that all other unrequired allotment balances, unrequired appropriation balances, and unrequired encumbrance balances shall lapse as of June 30, 1988, as provided in Section 253 of this Act."

(4) By adding a new Section to read:

"SECTION 265A. If the amount specified for a capital improvement project listed in this Act or in any other Act authorized by the legislature is insufficient, and where the source of funding for the project is designated as the general obligation bond fund, the Governor may make supplemental allotments from the project adjustment fund appropriated in Part II and described in Part IV of this Act; provided that such supplemental allotments from the project adjustment fund shall not be used to increase the scope of the project; and provided further that such allotments shall be made no later than June 30, 1988."

ACT 346

SECTION 13. Part VII, Act 301, Session Laws of Hawaii 1983, Section 108 is amended to read as follows:

"SECTION 108. If general obligation bond proceeds have been allocated to an appropriation which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such appropriation, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other appropriations which may be satisfied from general obligation bond proceeds made in the same or any other act of the Legislature."

SECTION 14. SEVERABILITY. If any portion of this Act or its application to any person or circumstance is held to be invalid for any reason, then the Legislature declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 15. If manifest clerical, typographical, or other mechanical errors are found in this Act, the Governor is authorized to correct such errors. All changes made pursuant to this section shall be reported to the Legislature at its next session.

SECTION 16. Statutory material to be repealed is bracketed. New material is underscored. Notwithstanding the provisions of section 23G-16.5, Hawaii Revised Statutes, in printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.²

SECTION 17. Nothing in this Act shall affect the validity or continuing effectiveness of any provision of Act 300, Session Laws of Hawaii 1985, not repealed or modified by this Act.

SECTION 18. EFFECTIVE DATE. Except as provided in section 6, this Act shall take effect upon its approval.

(Approved June 13, 1986.)

Notes

1. Item vetoed and initialed "GRA", 6-13-86.
2. Edited accordingly.

ACT 346

H.B. NO. 1856-86

A Bill for an Act Relating to State Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, section 13, of the State Constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.", the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the state is set forth in Article VII, section 13, of the State Constitution, which

states in part: "General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance." Article VII, section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including "reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year."

- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1985-1986 and estimated for each fiscal year from 1986-1987 to 1988-1989, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1982-83	1,218,675,016	
1983-84	1,320,280,833	
1984-85	1,439,541,519	
1985-86	1,511,168,000	245,340,671
1986-87	1,615,695,000	263,377,738
1987-88	1,715,178,000	281,594,945
1988-89	(Not Applicable)	298,592,528

For fiscal years 1985-86, 1986-87, 1987-88, and 1988-89 respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 1982-83, 1983-84, and 1984-1985 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1985, dated November 27, 1985. The net general fund revenues for fiscal years 1985-86 to 1987-88 are estimates, based on general fund revenue estimates made as of March 14, 1986, by the council on revenues, the body assigned by Article VII, section 7, of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. As certified by the director of finance in the most recent Certificate of the Debt Limit of the State of Hawaii dated March 25, 1986, the total amount of principal and interest on outstanding general obligation bonds for determining the power of the State to issue general obligation bonds within the debt limit is as follows for fiscal year 1986-87 to fiscal year 1992-93:

Fiscal Year	Principal and Interest
1986-87	213,920,056
1987-88	213,649,061
1988-89	211,633,856
1989-90	200,417,174
1990-91	191,216,198
1991-92	178,341,579
1992-93	166,163,803

The Certificate of Debt Limit as of March 25, 1986, further shows that the amount of principal and interest on outstanding bonds applicable to the debt limit continues to decline each year from fiscal year 1993-94 to fiscal year 2011-12 when the final installment of \$15,347 shall be due and payable.

- (4) Amount of authorized and unissued general obligation bonds and bonds authorized by this Act. As calculated from the state comptroller's bond fund report as of February 28, 1986, adjusted for appropriations to be funded by general obligation bonds and reimbursable general obligation bonds as provided in Act 169, Sessions Laws of Hawaii 1985 (Judiciary Appropriations Act of 1985) and Act 300, Sessions Laws of Hawaii 1985 (General Appropriations Act of 1985) to be expended in the fiscal year 1986-87, and for appropriations to be funded by general obligation bonds as provided in Senate Bill No. 1743-86, H.D. 1,¹ and also for the \$75,000,000 general obligation bonds dated March 1, 1986, Series BE, and further adjusted for lapsing of appropriations provided in Senate Bill No. 2048-86, H.D. 1, the total amount of authorized but unissued general obligation bonds is \$399,292,241. The total amount of general obligation bonds authorized by this Act is \$80,282,000. The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds authorized by this Act is \$479,574,241.
- (5) Proposed general obligation bond issuance. As reported by the department of budget and finance for fiscal years 1986-87, 1987-88, and 1988-89, the State proposes to issue \$80,000,000 semiannually in each of fiscal years 1986-87, 1987-88, and 1988-89. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal installments of principal, and interest payments commencing six months from the date of issuance and being paid semiannually thereafter. It is assumed that this practice will continue to be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during the fiscal years 1986-87 and 1987-88 is \$320,000,000. An additional \$160,000,000 is proposed to be issued in fiscal year 1988-89. The total amount of \$320,000,000 which is proposed to be issued through fiscal year 1987-88 is sufficient to meet the requirements of the authorized and unissued

bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is \$479,574,241, as reported in paragraph (4), except for \$159,574,241. It is assumed that the appropriations to which an additional \$159,574,241 in bond issuance needs to be applied will have been encumbered as of June 30, 1988. The \$160,000,000 which is proposed to be issued in fiscal year 1988-89 will be sufficient to meet the requirements of the June 30, 1988, encumbrances in the amount of \$159,574,241. The amount of assumed encumbrances as of June 30, 1988 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1988, and the amount of June 30, 1988, encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1988-89, the legislature finds that in the aggregate, the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.

- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:
 - (A) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
 - (B) While at the present time, all of the special funds which are required to make reimbursements to the general fund on bonds issued are in a condition to qualify all of the reimbursable bonds for exclusion, it cannot be stated with certainty that such a condition will continue.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, as reported in the Certificate of Debt Limit of the State of Hawaii as of March 25, 1986, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is 13.18 per cent for the ten years from fiscal year 1986-87 to fiscal year 1995-96. For the purpose of this declaration, the assumption is made that ten per cent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of 14 per cent through June 30, 1987, and 9.5 per cent thereafter, the maximum allowable by law, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as

adjusted, and the bonds authorized by this Act, will not cause the debt limit to be exceeded at the time of each bond issuance:

Time of Issuance and Amount to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount and Year of Highest Principal and Interest
1st half FY 1986-87 \$72,000,000	\$263,377,738	\$223,729,061 (FY 1987-88)
2nd half FY 1986-87 \$72,000,000	\$263,377,738	\$233,809,061 (FY 1987-88)
1st half FY 1987-88 \$72,000,000	\$281,594,945	\$238,633,853 (FY 1988-89)
2nd half FY 1987-88 \$72,000,000	\$281,594,945	\$245,473,853 (FY 1988-89)
1st half FY 1988-89 \$72,000,000	\$298,592,528	\$248,818,139 (FY 1989-90)
2nd half FY 1988-89 \$72,000,000	\$298,592,528	\$255,658,139 (FY 1989-90)

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 2. The legislature finds the basis for the declaration of findings set forth in this Act are reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in H.B. No. 1741-86, H.D. 1, S.D. 1, C.D. 1, and S.B. No. 2048-86, S.D. 1, H.D. 1, C.D. 1,² passed by this regular session of 1986, and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed \$80,282,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-13, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

SECTION 4. The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 5. In printing this Act, the revisor of statutes shall substitute in section 3 the corresponding act numbers for bills identified therein.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 13, 1986.)

Notes

1. Act 20, this volume.
2. Acts 345 and 347, respectively, this volume.

ACT 347

S.B. NO. 2048-86

A Bill for an Act Relating to Capital Improvement Projects.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act shall be known and may be cited as the General Improvements Act of 1986.

SECTION 2. The following sums or so much thereof as shall be sufficient to finance the projects listed in this Act, are appropriated or authorized, as the case may be for fiscal year 1986-1987, to be expended by the department of accounting and general services, unless otherwise specified, out of moneys in the treasury received from general obligation bond funds.

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F

Economic Development

PED102 - Commerce and Industry

1. HP4912 Oceanic Institute, Oahu

Plans, design and construction of two nursery system tanks.

PLANS					1
DESIGN					1
CONSTRUCTION					18
TOTAL FUNDING		PED		C	20 C

2. SP0405 Maui Renewable Resources Research Facility, Maui

Grant-in-aid: Plans and design of a Maui Renewable Resources Research Facility at Kealia, Maui.

PLANS					50
DESIGN					50
TOTAL FUNDING		PED		C	100 C

LNR172 - Forestry - Products Development

3. HP0201 Solar Hay Drying Facility, Panaewa, Hawaii

Design and construction of steel structure to house equipment used to dry hay that is necessary to feed livestock. Project includes construction of concrete floor and fiber glass roofing.

DESIGN					7
CONSTRUCTION					68
TOTAL FUNDING		LNR		C	75 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

		APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO. TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
PED120 - Energy Development and Management				
4.	HP0416 Natural Energy Laboratory of Hawaii, Ke-Ahole, Hawaii			
	Plans, design, construction, and equipment for solar water desalinization demonstration projects.			
	PLANS			3
	DESIGN			3
	CONSTRUCTION			40
	EQUIPMENT			4
	TOTAL FUNDING	PED	C	50 C
LNR141 - Water Development & Irrigation Services				
5.	HP1006 Irrigation, Phase II, Molokai Ag. Park and other Molokai Irrigation System Lots			
	Installation of lateral material, including meters and valves, of Phase II.			
	EQUIPMENT			25
	TOTAL FUNDING	LNR	C	25 C
6.	JP0403 Keanae Flume, Maui			
	Grant-in-aid: Design and construction for the rehabilitation of the Keanae flume.			
	DESIGN			9
	CONSTRUCTION			50
	TOTAL FUNDING	LNR	C	59 C
7.	HP2006 Waimanalo Irrigation System, Oahu			
	Grant-in-aid: Construction funds to dredge and maintain ditches.			
	CONSTRUCTION			50
	TOTAL FUNDING	LNR	C	50 C
8.	HP0414 Waimea Irrigation System, South Kohala, Hawaii			
	Design and construction for the improvement of the Waimea Irrigation System.			
	DESIGN			6
	CONSTRUCTION			100
	TOTAL FUNDING	LNR	C	106 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

APPROPRIATIONS (IN DOLLARS)

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
Transportation Facilities					
TRN114 - Ke-Ahole Airport Facilities and Services					
1.	HP0401	Civil Air Patrol Building, Ke-Ahole, Hawaii			
		Plans, design and construction of a civil air patrol headquarters building to be located at Ke-Ahole Airport, Hawaii.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			40
		TOTAL FUNDING	TRN	C	50 C
TRN313 - Kawaihae Harbor Facilities and Services					
2.	SP0303	Kawaihae Harbor Cattle Shute, Hawaii			
		Design and construction to repair Kawaihae Harbor cattle shute.			
		DESIGN			1
		CONSTRUCTION			9
		TOTAL FUNDING	TRN	C	10 C
TRN501 - Oahu Highways and Services					
3.	JP1145	Kapakahi Stream Drainage Improvement, Oahu			
		Plan, design and construction of drainage improvements, providing drainage from storm culvert fronting TMK 9-4-15-20 into Kapakahi Stream in Waipahu, Oahu.			
		PLANS			10
		DESIGN			10
		CONSTRUCTION			230
		TOTAL FUNDING	TRN	C	250 C
4.	HP4512	Farrington Highway, from Waiawa Interchange to Ft. Weaver Interchange, Oahu			
		Plan, design and install new manual control system with P.V.C. piping-gateway #2.			
		PLANS			2
		DESIGN			2
		CONSTRUCTION			29
		TOTAL FUNDING	TRN	C	33 C
5.	HP4513	Farrington Highway, from Waiawa Interchange to Ft. Weaver Interchange, Oahu			
		Plan, design and install drip irrigation system for trees and shrubs. Connect water line to existing main.			
		CONSTRUCTION			1
		TOTAL FUNDING	TRN	C	1 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
6.	HP1603	Kahekili Highway, Oahu			
		Design of safety improvements from Hui Iwa Street to Keaahala Road.			
		DESIGN			25
		TOTAL FUNDING	TRN	C	25 C
7.	SP1102	Kalaniana'ole Highway Project, Oahu			
		Acquisition of land/right-of-way rights of Kirkwood Place to Hawaii Kai Drive.			
		LAND			300
		TOTAL FUNDING	TRN	C	300 C
8.	HP1102	Kamehameha Highway, Intersection of Waikalani and Kamehameha Highway, Oahu			
		Plans and design for the installation of traffic safety signals.			
		PLANS			10
		DESIGN			90
		TOTAL FUNDING	TRN	C	100 C
9.	HP4201	Kamehameha Highway, Oahu			
		Construction of sidewalk along the makai side of Kamehameha Highway from the vicinity of the Hawaiian Electric Power Plant to the vicinity of Neil Blaisdell Park.			
		CONSTRUCTION			15
		TOTAL FUNDING	TRN	C	15 C
10.	SP2101	Traffic signals, Intersection of Kamehameha Highway and Lipoa Place, Oahu			
		Design and construction for the installation of traffic signals at the intersection of Kamehameha Highway and Lipoa Place.			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	TRN	C	50 C
11.	HP1701	Kamehameha Highway, Oahu			
		Improvements to the intersection of Kamehameha and Likelike Highways.			
		CONSTRUCTION			35
		TOTAL FUNDING	TRN	C	35 C
12.	HP1206	Kamehameha Highway, Oahu			
		Guardrail and fence improvement from Kipapa Street to Waikalani Drive.			
		DESIGN			4
		CONSTRUCTION			41
		TOTAL FUNDING	TRN	C	45 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
13.	HP1301	Kamehameha Highway, Oahu			
		Design and construction of street lights on Kamehameha Highway between Karsten Thot Bridge and Whitmore Street Intersection, Wahiawa.			
		DESIGN			3
		CONSTRUCTION			25
		TOTAL FUNDING	TRN	C	28 C
14.	SP2216	Moanalua Road, Oahu			
		Plans, design, and construction for a stacking lane on Moanalua Road at Waiau H-1 interchange inbound to Pearl City from Ewa.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			3
		TOTAL FUNDING	TRN	C	5 C
15.	HP4516	Paiwa Interchange, H-1 Freeway, Oahu			
		Plan, design and construction for Paiwa Interchange on H-1 Freeway, Waipahu. Donations of land and money by private source may be used to implement the construction of this project.			
		CONSTRUCTION			1
		TOTAL FUNDING	TRN	C	1 C
16.	HP1103	Waikalani Drive, Oahu			
		Plans, design and construction of a sidewalk extending from Waikalani Drive to the end of Mililani Town on mauka side of Kamehameha Highway.			
		PLANS			10
		DESIGN			10
		CONSTRUCTION			80
		TOTAL FUNDING	TRN	C	100 C
TRN511 - Hawaii Highways and Services					
17.	HP0419	Homestead Roads, Fourth Representative District, Hawaii			
		Design, improvements and/or construction of homestead roads, Fourth Representative District, Hawaii.			
		DESIGN			2
		CONSTRUCTION			18
		TOTAL FUNDING	TRN	C	20 C
18.	HP0418	Keaau-Pahoa Road, Hawaii			
		Design and construction of shoulder improvements.			
		DESIGN			5

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		CONSTRUCTION			45
		TOTAL FUNDING	TRN	C	50 C
19.	HP0417	South Kona Road, Hawaii			
		Plans, design, and acquisition of land necessary for widening and straightening of the South Kona Road.			
		PLANS			5
		LAND			10
		DESIGN			10
		TOTAL FUNDING	TRN	C	25 C
TRN531 - Maui Highways and Services					
20.	HP0701	Hana Highway, Maui			
		Planning, design and construction of improvements to the Hana Highway between Dairy Road and Haleakala Highway.			
		PLANS			10
		DESIGN			25
		CONSTRUCTION			215
		TOTAL FUNDING	TRN	C	250 C
21.	HP0901	Honoapiilani Highway, from North Kihei Road to Kuhelani Highway, Maui			
		Construct safety improvement for widening on Honoapiilani Highway between North Kihei Road and Kuhelani Highway to provide left turn lane and construction of stabilized shoulders and guardrails.			
		CONSTRUCTION			100
		TOTAL FUNDING	TRN	C	100 C
22.	HP1008	Honoapiilani Highway Improvements from Lahaina to Kapalua, Maui			
		Study of traffic congestion problems and development of plans to alleviate them.			
		PLANS			2
		DESIGN			23
		TOTAL FUNDING	TRN	C	25 C
23.	SP0501	Intersection of Lahainaluna Road and Honoapiilani Highway, Maui			
		Plans, design and construction to upgrade the intersection of Lahainaluna Road and Honoapiilani Highway, Maui.			
		PLANS			15
		DESIGN			15
		CONSTRUCTION			120
		TOTAL FUNDING	TRN	C	150 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
24.	HP0902	Kahului Beach Road, Maui			
		Construct Kahului Beach Road drainage improvement at Waiehu Beach Road and Kahului Beach Road intersection.			
		CONSTRUCTION			100
		TOTAL FUNDING	TRN	C	100 C
25.	HP0903	Kahului Beach Road, Maui			
		Install street lights at Kahului Beach Road and Kanaloa Avenue intersection.			
		CONSTRUCTION			50
		TOTAL FUNDING	TRN	C	50 C
26.	HP0801	Puunene Avenue, Maui			
		Design and construction of concrete sidewalks on both sides of Puunene Avenue from Puukani Street to Kamehameha Avenue.			
		DESIGN			20
		CONSTRUCTION			180
		TOTAL FUNDING	TRN	C	200 C
TRN561 - Kauai Highways and Services					
27.	HP5105	Kaumualii Highways Junction with Halewili Road, Kauai			
		Preliminary and constructional engineering plans to improve junction at Kaumualii Highway and Halewili Road.			
		DESIGN			50
		TOTAL FUNDING	TRN	C	50 C
28.	HP5108	Kaumualii Highway at Kaumakani Village Road, Kauai			
		Plans, design and construction of a left-turn storage lane at the intersection of Kaumualii Highway at Kaumakani Village Road.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			13
		TOTAL FUNDING	TRN	C	15 C

Environmental Protection

LNR402 - Forests and Wildlife Resources

1. HP2306 Native Hawaii Reforestation on 16th Avenue, Oahu
- Grant-in-aid: Design, grubbing and improvements for landscaping of a native Hawaii reforestation project where 16th Avenue meets Paula Drive, TMK 3-3-17.

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			APPROPRIATIONS (IN DOLLARS)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F
		DESIGN		5
		CONSTRUCTION		45
		TOTAL FUNDING	LNR	50 C
LNR404 - Water Resources				
2. HP0413 Milolii Community, Hawaii				
Grant-in-aid: Plans, design, and construction for water desalinization, sewage disposal and solar electricity projects for the Milolii Community.				
		PLANS		2
		DESIGN		2
		CONSTRUCTION		24
		TOTAL FUNDING	LNR	28 C
Health				
HTH211 - Hilo Hospital				
1. HP0412 Hilo Hospital, Hawaii				
Design and renovation or construction of a psychiatric facility on the grounds of the former Hilo Hospital, Waianue Avenue.				
		DESIGN		10
		CONSTRUCTION		90
		TOTAL FUNDING	AGS	100 C
HTH215 - Kona Hospital				
2. SP0102 Kona Hospital, Hawaii				
Design and construction for the development of a psychiatric ward.				
		DESIGN		10
		CONSTRUCTION		90
		TOTAL FUNDING	AGS	100 C
HTH231 - Kauai Veterans Memorial Hospital				
3. JP5125 Kauai Veterans Memorial Hospital, Kauai				
Reroofing of nursing and ancillary service unit.				
		DESIGN		2
		CONSTRUCTION		80
		TOTAL FUNDING	AGS	82 C
4. HP5107 Kauai Veterans Memorial Hospital, Kauai				
Construction to replace main 4 inch waterline to the hospital and 2 inch waterline that services the 7 acre grounds.				
		CONSTRUCTION		15
		TOTAL FUNDING	AGS	15 C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
HTH242 - Leahi Hospital					
5.	SP1306	Leahi Hospital, Honolulu			
		Design and construction to upgrade electrical switchgear and related equipment.			
		DESIGN			25
		CONSTRUCTION			150
		TOTAL FUNDING	AGS	C	175 C
SUB601 - Private Hospitals & Medical Services					
6.	JP1407	Kahuku Hospital, Oahu			
		Grant-in-aid for modernization and renovation of Rothwell Wing.			
		DESIGN			15
		CONSTRUCTION			210
		TOTAL FUNDING	AGS	C	225 C
7.	HP0411	Kona Association for Retarded Citizens DBA Kona Krafts, Hawaii			
		Renovation and improvements to existing building to include painting and rain gutters; installation of security fence and improvements to plan nursery.			
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	10 C
8.	JP4924	Waianae Coast Comprehensive Health Center, Oahu			
		Grant-in-aid: Design and construction for the renovation of existing state building.			
		DESIGN			10
		CONSTRUCTION			140
		TOTAL FUNDING	AGS	C	150 C
Social Services					
SOC220 - Rental Housing Augmentation and Assistance					
1.	HP3806	Hauiki Project Community Center, Oahu			
		Construction of an enclosure and general improvements to the Hauiki Project Community Center.			
		CONSTRUCTION			40
		TOTAL FUNDING	SOC	C	40 C
2.	HP3915	Kamehameha Homes and Kaahumanu Housing, Oahu			
		Renovation of facilities.			
		CONSTRUCTION			21
		TOTAL FUNDING	SOC	C	21 C

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		APPROPRIATIONS (IN DOLLARS)			
ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
HHL602 - Plnng, Devpmt and Mgt for Hawn Homestd Land					
3.	HP1007	Hawaiian Home Lands Subdivisions, Molokai			
		Engineering study and design for sub-division of Hawaiian Home Lands agricultural lots on Molokai.			
		DESIGN			25
		TOTAL FUNDING	HHL	C	25 C
Formal Education					
EDN105 - Regular Instruction Program					
1.	JP1508	Ahuimanu Elementary School, Oahu			
		Design and construction of dividing walls in open classrooms to improve the educational program.			
		DESIGN			4
		CONSTRUCTION			55
		TOTAL FUNDING	AGS	C	59 C
2.	HP4101	Aiea Elementary School, Oahu			
		Design and construction for replacement of lighting systems in rooms E-43, H-1, H-2, H-3, I-28, I-29, I-30.			
		DESIGN			1
		CONSTRUCTION			2
		TOTAL FUNDING	AGS	C	3 C
3.	HP4203	Aiea Elementary School, Oahu			
		Design and construction to renovate classroom C211 into a computer lab center.			
		DESIGN			1
		CONSTRUCTION			3
		TOTAL FUNDING	AGS	C	4 C
4.	SP2107	Aiea Elementary School, Oahu			
		Installation of carpet in room 108.			
		DESIGN			1
		CONSTRUCTION			2
		TOTAL FUNDING	AGS	C	3 C
5.	HP4102	Aiea High School, Oahu			
		Design and construction for installation of security fence on the mauka boundary of school campus between private homes and school property.			
		DESIGN			3
		CONSTRUCTION			24
		TOTAL FUNDING	AGS	C	27 C

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			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
6.	SP2104	Aiea High School, Oahu			
		Design for an additional weight and training and wrestling room to Building A.			
		DESIGN			40
		TOTAL FUNDING	AGS	C	40 C
7.	SP2105	Aiea High School, Oahu			
		Design and construction for repaving the driveway entrance.			
		DESIGN			5
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	15 C
8.	SP2106	Aiea High School, Oahu			
		Design and construction for enclosed stairway alcove for Buildings C and D.			
		DESIGN			5
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	15 C
9.	JP4121	Aiea Intermediate School, Oahu			
		Design and construction for installation of air conditioning in school library.			
		DESIGN			23
		CONSTRUCTION			180
		TOTAL FUNDING	AGS	C	203 C
10.	HP4306	Aiea Intermediate School, Oahu			
		Design and construction for installation of a security fence around the mauka end of the school campus.			
		DESIGN			5
		CONSTRUCTION			24
		TOTAL FUNDING	AGS	C	29 C
11.	HP1902	Aikahi Elementary School, Oahu			
		Design and construction of ceiling fans in cafeteria and library.			
		DESIGN			5
		CONSTRUCTION			40
		EQUIPMENT			26
		TOTAL FUNDING	AGS	C	71 C
12.	HP2310	Aina Haina Elementary School, Oahu			
		Plans and design for covered walkways between the cafeteria and all existing buildings.			
		PLANS			4
		DESIGN			10
		TOTAL FUNDING	AGS	C	14 C

CAPITAL IMPROVEMENT PROJECTS

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			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
13.	HP3001	Ala Wai Elementary School, Oahu			
		Planning and construction of covered walkways from the administration building to Building A, the cafeteria, and the library.			
		PLANS			4
		CONSTRUCTION			36
		TOTAL FUNDING	AGS	C	40 C
14.	SP1503	Ala Wai Elementary School, Oahu			
		Design and construction for the renovation of the school library.			
		DESIGN			5
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	15 C
15.	SP1505	Ala Wai Elementary School, Oahu			
		Design and construction for phase 1 replacement of old transom windows with wooden louvers in all buildings.			
		DESIGN			10
		CONSTRUCTION			125
		TOTAL FUNDING	AGS	C	135 C
16.	HP3901	Aliamanu Elementary School, Oahu			
		Design and construction of security screen for computer.			
		DESIGN			1
		CONSTRUCTION			3
		TOTAL FUNDING	AGS	C	4 C
17.	HP3902	Aliamanu Elementary School, Oahu			
		Redesign and construction of classroom.			
		DESIGN			2
		CONSTRUCTION			6
		TOTAL FUNDING	AGS	C	8 C
18.	HP4004	Aliamanu Elementary School, Oahu			
		Purchase and install classroom dividers.			
		CONSTRUCTION			6
		EQUIPMENT			10
		TOTAL FUNDING	AGS	C	16 C
19.	HP4005	Aliamanu Elementary School, Oahu			
		Resurface parking lot.			
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	20 C

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			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
20.	HP3903	Aliamanu Intermediate School, Oahu			
		Renovation of resource room to a career resource center.			
		CONSTRUCTION			7
		TOTAL FUNDING	AGS	C	7 C
21.	HP4002	Aliamanu Intermediate School, Oahu			
		Design and construction of a sprinkler system for the improvement of the playground.			
		DESIGN			7
		CONSTRUCTION			71
		TOTAL FUNDING	AGS	C	78 C
22.	HP4003	Aliamanu Intermediate School, Oahu			
		Plans and design for installation of a lawn around classroom Building A.			
		PLANS			6
		DESIGN			20
		TOTAL FUNDING	AGS	C	26 C
23.	HP4001	Aliamanu Intermediate School, Oahu			
		Purchase and install 12 ceiling fans in the cafetorium, kitchen and library.			
		CONSTRUCTION			1
		EQUIPMENT			2
		TOTAL FUNDING	AGS	C	3 C
24.	SP2003	Aliamanu Intermediate School, Oahu			
		Design & installation of lights in school parking lot.			
		DESIGN			5
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	25 C
25.	HP2501	Aliiolani Elementary School, Oahu			
		Renovation of school facilities; partitioning for former 3-on-2 classrooms and security screens.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			98
		TOTAL FUNDING	AGS	C	100 C
26.	SP2111	Alvah Scott Elementary School, Oahu			
		Termite treatment of all buildings.			
		DESIGN			4
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	14 C
27.	SP2209	August Ahrens Elementary School, Oahu			
		Design and installation of classroom security screens.			

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				FISCAL M YEAR O 1986-87 F
		DESIGN		4
		CONSTRUCTION		10
		TOTAL FUNDING	AGS	14 C
28.	HP2002	Blanche Pope Elementary School, Oahu		
		Exterior painting of all buildings.		
		CONSTRUCTION		50
		TOTAL FUNDING	AGS	50 C
29.	HP1602	Castle High School, Oahu		
		Design for Building J classroom extension.		
		CONSTRUCTION		112
		TOTAL FUNDING	AGS	112 C
30.	SP0807	Castle High School, Oahu		
		Design and construction for a chain link fence enclosing agriculture area.		
		DESIGN		5
		CONSTRUCTION		30
		TOTAL FUNDING	AGS	35 C
31.	HP3506	Central Intermediate School, Oahu		
		Purchase and installation of ceiling fans.		
		CONSTRUCTION		2
		EQUIPMENT		15
		TOTAL FUNDING	AGS	17 C
32.	SP1902	Dole Intermediate School, Oahu		
		Maintenance and general improvements to the school for security.		
		DESIGN		4
		CONSTRUCTION		15
		TOTAL FUNDING	AGS	19 C
33.	HP1804	Enchanted Lake Elementary School, Oahu		
		Design and construction for security improvement, including security screens.		
		DESIGN		1
		CONSTRUCTION		3
		TOTAL FUNDING	AGS	4 C
34.	HP1805	Enchanted Lake Elementary School, Oahu		
		Construction of a covered walkway from the main walkway to the library.		
		CONSTRUCTION		75
		TOTAL FUNDING	AGS	75 C
35.	JP4623	Ewa Beach Elementary School, Oahu		
		Improvements to chain link fencing.		
		CONSTRUCTION		30
		TOTAL FUNDING	AGS	30 C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
36.	JP4723	Ewa Elementary School, Oahu			
		Plans, design and construction for installation of new water line.			
		PLANS			1
		DESIGN			2
		CONSTRUCTION			17
		TOTAL FUNDING	AGS	C	20 C
37.	HP3905	Farrington High School, Oahu			
		Renovation of bathrooms.			
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	C	90 C
38.	SP1901	Farrington High School, Oahu			
		Design and construction to improve water closet facilities.			
		DESIGN			10
		CONSTRUCTION			65
		TOTAL FUNDING	AGS	C	75 C
39.	HP3803	Fern Elementary School, Oahu			
		Improvement of facilities and grounds to include, but not be limited to, the construction of improvements to prevent safety hazards due to mud and rain.			
		CONSTRUCTION			30
		TOTAL FUNDING	AGS	C	30 C
40.	JP4121	Gus Webling Elementary School, Oahu			
		Design and construction for installation of air conditioning in school library.			
		DESIGN			30
		CONSTRUCTION			137
		TOTAL FUNDING	AGS	C	167 C
41.	HP0403	Haiku Elementary School, Maui			
		Design and construction of parking area with lights.			
		DESIGN			7
		CONSTRUCTION			68
		TOTAL FUNDING	AGS	C	75 C
42.	HP1201	Hale Kula Elementary School, Oahu			
		Design for expansion and renovation of library with air conditioning.			
		DESIGN			33
		TOTAL FUNDING	AGS	C	33 C
43.	HP1202	Hale Kula Elementary School, Oahu			
		Install and construct partitions for 3-on-2 classroom walls.			
		DESIGN			5

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		CONSTRUCTION		20
		TOTAL FUNDING	AGS	25 C
44.	HP1203	Hale Kula Elementary School, Oahu		
		Design and construct parking area.		
		DESIGN		20
		CONSTRUCTION		60
		TOTAL FUNDING	AGS	80 C
45.	JP1407	Haleiwa Elementary School, Oahu		
		Design and construction to pave bus loading zone with fencing.		
		DESIGN		10
		CONSTRUCTION		80
		TOTAL FUNDING	AGS	90 C
46.	HP1304	Helemano Elementary School, Oahu		
		Design and construction to add additional parking stalls and funding of entire parking lot.		
		DESIGN		6
		CONSTRUCTION		22
		TOTAL FUNDING	AGS	28 C
47.	SP2004	Hickam Elementary School, Oahu		
		Design & construction of kiln room.		
		DESIGN		3
		CONSTRUCTION		25
		TOTAL FUNDING	AGS	28 C
48.	HP4205	Highlands Intermediate School, Oahu		
		Design and installation of ventilator for darkroom.		
		DESIGN		2
		CONSTRUCTION		2
		EQUIPMENT		6
		TOTAL FUNDING	AGS	10 C
49.	JP4322	Highlands Intermediate School, Oahu		
		Design and construction of a new sewerline.		
		DESIGN		20
		CONSTRUCTION		145
		TOTAL FUNDING	AGS	165 C
50.	HP4304	Highlands Intermediate School, Oahu		
		Design and construction of a venting system to dissipate toxic fumes from the kiln room.		
		DESIGN		2
		CONSTRUCTION		8
		TOTAL FUNDING	AGS	10 C

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51.	JP2814	Hokulani Elementary School, Oahu			
		Improvements to the front entrance of the school grounds and parking lot.			
		DESIGN			10
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	C	100 C
52.	HP0404	Honokaa High and Elementary School, Hawaii			
		Design and construction of dust collection system for industrial arts building.			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	C	50 C
53.	HP0405	Honokaa High and Elementary School, Hawaii			
		Design and construction of portable classroom building for agricultural program.			
		DESIGN			10
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	C	100 C
54.	HP4507	Honowai Elementary School, Oahu			
		Plan, design and construct chain link fence rear of campus.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			2
		TOTAL FUNDING	AGS	C	4 C
55.	HP0406	Hookena School, Hawaii			
		Plans, design, and construction of a chain link fence around the school to include increasing the height of existing chain link fence in some areas at Hookena School.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	12 C
56.	JP4623	Ilima Intermediate School, Oahu			
		Improvements to chain link fencing.			
		DESIGN			3
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	23 C
57.	JP4623	Iroquois Point Elementary School, Oahu			
		Design and construction of security screens.			
		DESIGN			1

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		CONSTRUCTION			14
		TOTAL FUNDING	AGS	C	15 C
58.	HP4612	James Campbell High School, Oahu			
		Plan and design a weight training room.			
		PLANS			10
		DESIGN			13
		TOTAL FUNDING	AGS	C	23 C
59.	HP4613	James Campbell High School, Oahu			
		Install electrical floor outlets in business classrooms and teachers' work-rooms.			
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	10 C
60.	HP4614	James Campbell High School, Oahu			
		Install concrete benches in central courtyard.			
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	C	5 C
61.	JP4623	James Campbell High School, Oahu			
		Plan, design and construct concrete stairs to the football field.			
		PLANS			1
		DESIGN			2
		CONSTRUCTION			7
		TOTAL FUNDING	AGS	C	10 C
62.	JP4623	James Campbell High School, Oahu			
		Plan, design and construct concrete stairs to the gymnasium.			
		PLANS			1
		DESIGN			2
		CONSTRUCTION			7
		TOTAL FUNDING	AGS	C	10 C
63.	HP4617	James Campbell High School, Oahu			
		Plan and design a swimming pool with appurtenances, bleachers, and locker/shower facilities to be located between the gymnasium and the locker/shower building as designated in the school's master plan.			
		PLANS			15
		DESIGN			100
		TOTAL FUNDING	AGS	C	115 C
64.	HP3204	Kaahumanu Elementary School, Oahu			
		Design and construction of cross-ventilation windows in Buildings E and F.			

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	C	50 C
65.	HP3504	Kaahumanu Elementary School, Oahu			
		Design and construction of a grassy play area by converting an unusable asphalt parking area.			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	C	50 C
66.	HP3505	Kaahumanu Elementary School, Oahu			
		Design and installation of an artificial turf surface for recreation equipment areas.			
		DESIGN			4
		EQUIPMENT			46
		TOTAL FUNDING	AGS	C	50 C
67.	HP1303	Kaala Elementary School, Oahu			
		Design and construction of security gates for building.			
		DESIGN			2
		CONSTRUCTION			8
		TOTAL FUNDING	AGS	C	10 C
68.	SP1903	Kaewai Elementary School, Oahu			
		General improvements to school facility and grounds for safety, health and security.			
		DESIGN			4
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	C	19 C
69.	HP2401	Kahala Elementary School, Oahu			
		Design and construction of a concrete base for a fitness court.			
		DESIGN			1
		CONSTRUCTION			1
		TOTAL FUNDING	AGS	C	2 C
70.	HP2402	Kahala Elementary School, Oahu			
		Purchase and installation of wall fans.			
		CONSTRUCTION			2
		EQUIPMENT			5
		TOTAL FUNDING	AGS	C	7 C
71.	HP2404	Kahala Elementary School, Oahu			
		Replacement of unrepairable classroom windows.			
		CONSTRUCTION			9
		TOTAL FUNDING	AGS	C	9 C

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ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
72.	JP1508	Kahaluu Elementary School, Oahu			
		Design and construction for widening of driveway and cement sidewalk.			
		DESIGN			5
		CONSTRUCTION			31
		TOTAL FUNDING	AGS	C	36 C
73.	SP0803	Kahaluu Elementary School, Oahu			
		Design and construction for a safety fence.			
		DESIGN			1
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	11 C
74.	SP0805	Kahaluu Elementary School, Oahu			
		Design and construction for a covered walkway to library from classroom building.			
		DESIGN			2
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	22 C
75.	HP1404	Kahuku High and Elementary School, Oahu			
		Construction of additional bleachers.			
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	C	15 C
76.	SP0701	Kahuku High and Elementary School, Oahu			
		Design and construction of an announcer's booth (football field).			
		DESIGN			3
		CONSTRUCTION			12
		TOTAL FUNDING	AGS	C	15 C
77.	HP0802	Kahului Elementary School, Maui			
		Construction of chain link fence between County Park and Kahului School.			
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	C	15 C
78.	HP1903	Kailua Elementary School, Oahu			
		Installation of sprinkler system and additional faucets.			
		CONSTRUCTION			29
		TOTAL FUNDING	AGS	C	29 C
79.	JP1809	Kailua High School, Oahu			
		Design and construction of an automobile stall for painting cars.			
		DESIGN			2
		CONSTRUCTION			80
		TOTAL FUNDING	AGS	C	82 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
80.	JP1809	Kailua High School, Oahu			
		Installation of a chain link fence surrounding the football field.			
		DESIGN			1
		CONSTRUCTION			9
		TOTAL FUNDING	AGS	C	10 C
81.	JP4623	Kaimiloa Elementary School, Oahu			
		Design and construction of security screens.			
		DESIGN			2
		CONSTRUCTION			25
		TOTAL FUNDING	AGS	C	27 C
82.	HP4609	Kaimiloa Elementary School, Oahu			
		Plan and design ground sprinkler system.			
		PLANS			4
		DESIGN			4
		TOTAL FUNDING	AGS	C	8 C
83.	HP2605	Kaimuki High School, Oahu			
		Design and construction for upgrading and modernization of facilities (including gym bleachers and mezzanine, P. E. locker/shower, athletic field, vehicular/pedestrian circulation, site work and other buildings) to meet the BOE's specifications and standards for public school facilities.			
		CONSTRUCTION			100
		TOTAL FUNDING	AGS	C	100 C
84.	HP2801	Kaimuki High School, Oahu			
		Renovation and conversion of Building M for use as a graphic arts classroom.			
		DESIGN			10
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	C	100 C
85.	HP2405	Kaimuki Intermediate School, Oahu			
		Painting of classroom Buildings J, K, R, A and L.			
		CONSTRUCTION			50
		TOTAL FUNDING	AGS	C	50 C
86.	SP1305	Kaimuki Intermediate School, Oahu			
		Design and construction to ventilate and soundproof science classrooms to include acoustical capabilities.			
		DESIGN			10
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	C	100 C

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ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
87.	HP2101	Kaiser High School, Oahu			
		Plans, design and construction for installation of improved lighting for track and football field.			
		PLANS			2
		DESIGN			2
		CONSTRUCTION			31
		EQUIPMENT			90
		TOTAL FUNDING	AGS	C	125 C
88.	HP2104	Kaiser High School, Oahu			
		Plans, design and construction for completion of stadium, including additional bleachers, ticket booth, renovation of, and expansion of entrance/exit and sidewalk.			
		PLANS			10
		DESIGN			10
		CONSTRUCTION			205
		EQUIPMENT			25
		TOTAL FUNDING	AGS	C	250 C
89.	HP2301	Kalani High School, Oahu			
		Design and construction of shower facilities and gym improvements.			
		DESIGN			6
		CONSTRUCTION			64
		TOTAL FUNDING	AGS	C	70 C
90.	HP2302	Kalani High School, Oahu			
		Plans and construction of tennis courts and improvements to other athletic facilities.			
		PLANS			3
		CONSTRUCTION			27
		TOTAL FUNDING	AGS	C	30 C
91.	HP2604	Kalani High School, Oahu			
		Design and construction for development of new play field, and related improvements.			
		CONSTRUCTION			75
		TOTAL FUNDING	AGS	C	75 C
92.	HP3701	Kalihi Elementary School, Oahu			
		Design, construction and equipment for Kalihi Elementary School library extension.			
		DESIGN			15
		CONSTRUCTION			230
		EQUIPMENT			5
		TOTAL FUNDING	AGS	C	250 C

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ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
93.	SP1904	Kalihi Elementary School, Oahu			
		Plan and construct retaining wall below upper playground.			
		PLANS			4
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	C	19 C
94.	HP3906	Kalihi-Kai Elementary School, Oahu			
		Construction of asphalt or concrete walkway from entrances on McNeill St. to Buildings G and J.			
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	C	5 C
95.	HP3907	Kalihi-Kai Elementary School, Oahu			
		Construction to extend chainlink fence on Kaumualii Street.			
		CONSTRUCTION			6
		TOTAL FUNDING	AGS	C	6 C
96.	HP3908	Kalihi-Kai Elementary School, Oahu			
		Relocate gates and screen sides of stairwell on both ends of Building C.			
		CONSTRUCTION			3
		TOTAL FUNDING	AGS	C	3 C
97.	HP3909	Kalihi-Kai Elementary School, Oahu			
		Replacement and relocation of playground apparatus.			
		CONSTRUCTION			1
		EQUIPMENT			2
		TOTAL FUNDING	AGS	C	3 C
98.	SP2005	Kalihi-Kai Elementary, Oahu			
		Feasibility study for noise in classrooms & soundproofing of classrooms.			
		PLANS			21
		TOTAL FUNDING	AGS	C	21 C
99.	SP1905	Kalihi Uka School, Oahu			
		Renovate library and installation of portable air conditioning units.			
		DESIGN			4
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	C	19 C
100.	HP1707	Kaneohe Elementary School, Oahu			
		Plans and design for extension and renovation of library.			
		PLANS			3
		DESIGN			25
		TOTAL FUNDING	AGS	C	28 C

CAPITAL IMPROVEMENT PROJECTS

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			APPROPRIATIONS (IN DOLLARS)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F
				FISCAL M YEAR O 1986-87 F
101.	JP1709	Kaneohe Elementary School, Oahu		
		Plans, design, and construction for improvements to school grounds.		
		PLANS		10
		DESIGN		10
		CONSTRUCTION		130
		TOTAL FUNDING	AGS	150 C
102.	SP0603	Kanoelani Elementary School, Oahu		
		Plans and design for a new library at Kanoelani Elementary School.		
		PLANS		45
		DESIGN		45
		TOTAL FUNDING	AGS	90 C
103.	JP4924	Kapaa Elementary School, Kauai		
		Plan, design, and construct ground improvements including chain link fence and roadway for play area for primary grades.		
		PLANS		5
		DESIGN		10
		CONSTRUCTION		165
		TOTAL FUNDING	AGS	180 C
104.	JP4924	Kapaa Elementary School, Kauai		
		Relocation of portable classrooms, demolition, improvements as necessary to develop play field. This project is to be planned and implemented concurrently with the 6 classroom-project.		
		DESIGN		20
		CONSTRUCTION		280
		TOTAL FUNDING	AGS	300 C
105.	HP5002	Kauai High and Intermediate School, Kauai		
		Design and construction to improve athletic field to include track.		
		DESIGN		50
		TOTAL FUNDING	AGS	50 C
106.	JP5008	Kauai High and Intermediate School, Kauai		
		Renovate and improve Building R, Room R-3, to a band room with air conditioning and storage cabinets.		
		DESIGN		30
		CONSTRUCTION		210
		EQUIPMENT		10
		TOTAL FUNDING	AGS	250 C

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			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
107.	HP3402	Kauluwela Elementary School, Oahu			
		Design and construction of chain link fence.			
		DESIGN			1
		CONSTRUCTION			4
		TOTAL FUNDING	AGS	C	5 C
108.	HP3403	Kauluwela Elementary School, Oahu			
		Design and construction of roof and walkways.			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	C	50 C
109.	HP0407	Kaumana Elementary School, Hawaii			
		Design and construction for playground improvement.			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	C	50 C
110.	HP3301	Kawananakoa Intermediate School, Oahu			
		Design and construction of a new exit driveway to Kuakini Street.			
		DESIGN			4
		CONSTRUCTION			31
		TOTAL FUNDING	AGS	C	35 C
111.	HP3302	Kawananakoa Intermediate School, Oahu			
		Design and construction of a public address system for all classrooms.			
		DESIGN			6
		CONSTRUCTION			39
		TOTAL FUNDING	AGS	C	45 C
112.	SP1701	Prince David Kawananakoa Intermediate School, Oahu			
		Design and construction for the installment of air conditioning in the library.			
		DESIGN			17
		CONSTRUCTION			130
		TOTAL FUNDING	AGS	C	147 C
113.	SP1701	Prince David Kawananakoa Intermediate School, Oahu			
		Design and construction of new louvers in Building E.			
		DESIGN			10
		CONSTRUCTION			70
		TOTAL FUNDING	AGS	C	80 C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
114.	HP2003	Keolu Elementary School, Oahu			
		Replacement of classroom carpets.			
		CONSTRUCTION			21
		TOTAL FUNDING	AGS	C	21 C
115.	SP0902	King Intermediate School, Oahu			
		Design and construction to install acoustical tiles in the gym/armory.			
		DESIGN			5
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	C	95 C
116.	HP1205	Kipapa Elementary School, Oahu			
		Design and construct sprinkler system for play area.			
		DESIGN			5
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	25 C
117.	HP2103	Koko Head Elementary School, Oahu			
		Plans, design, and construction for complete restoration of exterior and interior of all buildings except library.			
		PLANS			2
		DESIGN			3
		CONSTRUCTION			30
		TOTAL FUNDING	AGS	C	35 C
118.	HP0408	Konawaena High School, Hawaii			
		Plans, design and construction of a weight room.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			40
		TOTAL FUNDING	AGS	C	50 C
119.	HP2902	Kuhio Elementary School, Oahu			
		Plans, design and construction for a parking lot, driveway and sidewalk.			
		PLANS			3
		DESIGN			3
		CONSTRUCTION			52
		EQUIPMENT			2
		TOTAL FUNDING	AGS	C	60 C
120.	SP1502	Kuhio Elementary School, Oahu			
		Design and construction for the enclosure of campus with fence.			
		DESIGN			25
		CONSTRUCTION			125
		TOTAL FUNDING	AGS	C	150 C

CAPITAL IMPROVEMENT PROJECTS

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ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
121.	SP1504	Kuhio Elementary School, Oahu			
		Design and construction of pavement and improvements to playground.			
		DESIGN			15
		CONSTRUCTION			60
		TOTAL FUNDING	AGS	C	75 C
122.	HP1001	Lahainaluna High School, Maui			
		Renovation of buildings to include but not be limited to replacement of termite eaten boards, reroofing, and replacement of floor tile.			
		CONSTRUCTION			50
		TOTAL FUNDING	AGS	C	50 C
123.	SP0401	Lahainaluna High School, Maui			
		Design and construction for improvements to drinking water system to meet quality requirements of State Dept. of Health.			
		DESIGN			20
		CONSTRUCTION			120
		TOTAL FUNDING	AGS	C	140 C
124.	SP0404	Lahainaluna High School, Maui			
		Design and construction for a sidewalk from Lahaina Intermediate to Lahainaluna High School.			
		DESIGN			10
		CONSTRUCTION			100
		TOTAL FUNDING	AGS	C	110 C
125.	HP1503	Laie Elementary School, Oahu			
		Construction of parking lot.			
		CONSTRUCTION			1
		TOTAL FUNDING	AGS	C	1 C
126.	HP3401	Lanakila Elementary School, Oahu			
		Design and construction of covered walkways from Building C to Building D and Building D to the cafetorium.			
		DESIGN			5
		CONSTRUCTION			60
		TOTAL FUNDING	AGS	C	65 C
127.	HP2004	Lanikai Elementary School, Oahu			
		Design and construction to relocate a portable building for lunch area.			
		DESIGN			4
		CONSTRUCTION			38
		TOTAL FUNDING	AGS	C	42 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

				APPROPRIATIONS (IN DOLLARS)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
128.	HP2005	Lanikai Elementary School, Oahu			
		Installation of chain link fence.			
		CONSTRUCTION			4
		TOTAL FUNDING	AGS	C	4 C
129.	SP2210	Lehua Elementary School, Oahu			
		Design and installation of classroom security screens.			
		DESIGN			5
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	25 C
130.	HP1302	Leilehua High School, Oahu			
		Design and construction of dust collection system for woodshop.			
		DESIGN			6
		CONSTRUCTION			35
		TOTAL FUNDING	AGS	C	41 C
131.	HP2601	Liholiho Elementary School, Oahu			
		Design and construction for improvements, including additional security measures, classroom renovations, site work and upgrading of existing facilities.			
		CONSTRUCTION			50
		TOTAL FUNDING	AGS	C	50 C
132.	JP3618	Likeli Elementary School, Oahu			
		Plans, design, construction and equipment for the renovation and expansion of the library, including central air conditioning with climate control and a multi-purpose conference room.			
		PLANS			25
		DESIGN			25
		CONSTRUCTION			225
		EQUIPMENT			25
		TOTAL FUNDING	AGS	C	300 C
133.	HP2602	Liliuokalani Elementary School, Oahu			
		Design and construction for improvements, including renovations, and upgrading of existing facilities to meet the BOE'S specifications and standards for public school facilities.			
		DESIGN			1
		CONSTRUCTION			34
		TOTAL FUNDING	AGS	C	35 C

CAPITAL IMPROVEMENT PROJECTS

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			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
134.	HP3805	Linapuni Elementary School, Oahu			
		Construction and installation of metal security screens over windows.			
		CONSTRUCTION			25
		TOTAL FUNDING	AGS	C	25 C
135.	HP3306	Lincoln Elementary School, Oahu			
		Design and construct classroom partitions to convert from type II to type I classrooms.			
		DESIGN			2
		CONSTRUCTION			13
		TOTAL FUNDING	AGS	C	15 C
136.	HP3306	Lincoln Elementary School, Oahu			
		Design and construction to continue security fence along Auwaiolimu Street fronting school campus.			
		DESIGN			2
		CONSTRUCTION			13
		TOTAL FUNDING	AGS	C	15 C
137.	HP3312	Maemae Elementary School, Oahu			
		Design and construction of a new concrete mauka wall with wood shutters, including security screens and necessary electric outlets.			
		DESIGN			2
		CONSTRUCTION			23
		TOTAL FUNDING	AGS	C	25 C
138.	JP3317	Maemae Elementary School, Oahu			
		Design and construction for expansion and renovation of library.			
		DESIGN			10
		CONSTRUCTION			60
		TOTAL FUNDING	AGS	C	70 C
139.	HP4906	Makaha Elementary School, Oahu			
		Plans, design and installation of security screens for various buildings.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	22 C
140.	JP4924	Makaha Elementary School, Oahu			
		Plans, design and construction of drainage system in area of Buildings A and B.			
		PLANS			1
		DESIGN			2
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	23 C

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ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
141.	HP3911	Makalapa Elementary School, Oahu			
		Construction for school and ground improvements.			
		CONSTRUCTION			2
		TOTAL FUNDING	AGS	C	2 C
142.	HP4106	Makalapa Elementary School, Oahu			
		Design and construction for installation of playground sprinkler system.			
		DESIGN			1
		CONSTRUCTION			1
		TOTAL FUNDING	AGS	C	2 C
143.	HP4105	Makalapa Elementary School, Oahu			
		Design and construction of ceiling fans in all classrooms.			
		DESIGN			3
		CONSTRUCTION			11
		TOTAL FUNDING	AGS	C	14 C
144.	JP4422	Manana Elementary School, Oahu			
		Design and construction of security screens to provide security to classrooms.			
		DESIGN			2
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	12 C
145.	HP2701	Manoa Elementary School, Oahu			
		Improvements and renovations to the school site and school facilities.			
		DESIGN			16
		CONSTRUCTION			160
		TOTAL FUNDING	AGS	C	176 C
146.	SP1401	Manoa Elementary School, Oahu			
		Design and construction for improvement of the drainage ditch.			
		DESIGN			26
		CONSTRUCTION			150
		TOTAL FUNDING	AGS	C	176 C
147.	SP0503	Maui High School Gymnasium, Maui			
		Plans, design and construction to raise gymnasium ceiling and roof.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	C	100 C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
148.	HP1806	Maunawili Elementary School, Oahu			
		Construction of storage areas under stairwells.			
		CONSTRUCTION			29
		TOTAL FUNDING	AGS	C	29 C
149.	HP3503	McKinley High School, Oahu			
		Improvements to the surface of the track oval.			
		CONSTRUCTION			75
		TOTAL FUNDING	AGS	C	75 C
150.	SP0601	Mililani Uka Elementary School, Oahu			
		Plans and design for a new 12-classroom building.			
		PLANS			80
		DESIGN			80
		TOTAL FUNDING	AGS	C	160 C
151.	SP2006	Moanalua Elementary School, Oahu			
		Installation of walls/partitions in classrooms.			
		DESIGN			3
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	23 C
152.	HP4006	Moanalua High School, Oahu			
		Design and construction of a portable classroom.			
		DESIGN			10
		CONSTRUCTION			80
		TOTAL FUNDING	AGS	C	90 C
153.	SP2009	Moanalua High School, Oahu			
		Design & installation of roofing to patio & installation of benches in front of Building H.			
		DESIGN			1
		CONSTRUCTION			25
		TOTAL FUNDING	AGS	C	26 C
154.	SP2007	Moanalua Intermediate School, Oahu			
		Design and installation of walls/partitions in classrooms.			
		DESIGN			3
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	23 C
155.	JP1909	Mokapu Elementary School, Oahu			
		Design and construction for renovation of J Building into a library and renovation of the existing library wing into classrooms.			

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ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		DESIGN			44
		CONSTRUCTION			400
		TOTAL FUNDING	AGS	C	444 C
156.	HP1002	Molokai High School, Molokai			
		Plans and design of an athletic field, bleachers and parking lot.			
		PLANS			2
		DESIGN			23
		TOTAL FUNDING	AGS	C	25 C
157.	SP0505	Molokai High and Intermediate School, Molokai			
		Plans, design and construction of an agricultural storage area.			
		PLANS			2
		DESIGN			3
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	25 C
158.	SP2212	Momilani Elementary School, Oahu			
		Design and installation of classroom security screens.			
		DESIGN			1
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	C	6 C
159.	HP4802	Nanakuli High and Intermediate Schools, Oahu			
		Plans, design and construction of stairway in middle field.			
		PLANS			2
		DESIGN			2
		CONSTRUCTION			16
		TOTAL FUNDING	AGS	C	20 C
160.	HP4801	Nanaikapono Elementary School, Oahu			
		Plans, design and construction of student drop-off area.			
		PLANS			3
		DESIGN			5
		CONSTRUCTION			55
		TOTAL FUNDING	AGS	C	63 C
161.	SP2408	Nanaikapono Elementary School, Oahu			
		Design and construction for the completion of 6 ft. chain link fence along ocean.			
		DESIGN			2
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	12 C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
162.	SP2409	Nanaikapono Elementary School, Oahu			
		Design and construction of lights for parking lot.			
		DESIGN			5
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	C	20 C
163.	SP2010	Nimitz Elementary School, Oahu			
		Installation of fencing around back boundary of school campus.			
		DESIGN			1
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	21 C
164.	HP2702	Noelani Elementary School, Oahu			
		Improvements and renovations to the school site and school facilities.			
		DESIGN			2
		CONSTRUCTION			23
		TOTAL FUNDING	AGS	C	25 C
165.	SP1402	Noelani Elementary School, Oahu			
		Construction of six-foot security fence and signs.			
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	C	5 C
166.	SP1402	Noelani Elementary School, Oahu			
		Repainting exterior of classroom A.			
		CONSTRUCTION			8
		TOTAL FUNDING	AGS	C	8 C
167.	SP1402	Noelani Elementary School, Oahu			
		Repainting exterior of classroom D.			
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	10 C
168.	SP1402	Noelani Elementary School, Oahu			
		Repainting exterior of library.			
		CONSTRUCTION			4
		TOTAL FUNDING	AGS	C	4 C
169.	SP1402	Noelani Elementary School, Oahu			
		Resurfacing of basketball court.			
		CONSTRUCTION			3
		TOTAL FUNDING	AGS	C	3 C
170.	SP1402	Noelani Elementary School, Oahu			
		Rewiring of classrooms for CATV and PA systems.			
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	10 C

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			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
171.	HP3311	Nuuanu Elementary School, Oahu			
		Design and construction of partitions for one 3-on-2 classroom.			
		DESIGN			2
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	C	17 C
172.	HP3310	Nuuanu Elementary School, Oahu			
		Design and installation of security screens for 12 classrooms.			
		DESIGN			5
		CONSTRUCTION			43
		TOTAL FUNDING	AGS	C	48 C
173.	JP0401	Pahoa Elementary School, Hawaii			
		Plans, design and construction of covered walkways to cafeteria.			
		PLANS			10
		DESIGN			10
		CONSTRUCTION			130
		TOTAL FUNDING	AGS	C	150 C
174.	HP0410	Pahoa Elementary School, Hawaii			
		Site selection study for new elementary school.			
		PLANS			25
		TOTAL FUNDING	AGS	C	25 C
175.	JP4422	Palisades Elementary School, Oahu			
		Design and construction for sprinkler system and ground improvement. Correct dangerous steep slope in playground by constructing a tile wall, filling in the area and planting grass over filled area.			
		DESIGN			6
		CONSTRUCTION			35
		TOTAL FUNDING	AGS	C	41 C
176.	HP2503	Palolo Elementary School, Oahu			
		Renovation of library to provide for a computer room.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			23
		TOTAL FUNDING	AGS	C	25 C
177.	JP3317	Pauoa Elementary School, Oahu			
		Design and construction of a new school entrance.			
		DESIGN			10
		CONSTRUCTION			60
		TOTAL FUNDING	AGS	C	70 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
178.	HP3304	Pauoa Elementary School, Oahu			
		Construct protective screens in Room D-6.			
		CONSTRUCTION			8
		TOTAL FUNDING	AGS	C	8 C
179.	HP3305	Pauoa Elementary School, Oahu			
		Construction to build wall for 3-on-2 rooms (Rooms B4/B5) to convert to self-contained classrooms.			
		CONSTRUCTION			12
		TOTAL FUNDING	AGS	C	12 C
180.	HP4308	Pearl City Elementary School, Oahu			
		Design and construction of permanent walls between classrooms.			
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	20 C
181.	SP2211	Pearl City Elementary School, Oahu			
		Design and installation of classroom security screens.			
		DESIGN			1
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	C	6 C
182.	HP4401	Pearl City Elementary School, Oahu			
		Design and construction of three walls in three 3-on-2 classrooms as classroom dividers.			
		DESIGN			4
		CONSTRUCTION			36
		TOTAL FUNDING	AGS	C	40 C
183.	SP2207	Pearl City Highlands Elementary School, Oahu			
		Design and installation of classroom security screens.			
		DESIGN			1
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	C	6 C
184.	HP4207	Pearl City High School, Oahu			
		Design and construction for music building service road.			
		DESIGN			22
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	C	112 C

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ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
185.	HP4301	Pearl City High School, Oahu			
		Design and construction of 3,072 seat concrete bleachers. All unexpended funds for this project will be allocated to the Pearl City High School music building service road.			
		CONSTRUCTION			200
		TOTAL FUNDING	AGS	C	200 C
186.	JSP062	Pearl City High School, Oahu			
		Design and construction of Phase I of the Stadium Complex.			
		DESIGN			20
		CONSTRUCTION			180
		TOTAL FUNDING	AGS	C	200 C
187.	HP4208	Pearl Ridge Elementary School, Oahu			
		Design of covered walkway.			
		DESIGN			34
		TOTAL FUNDING	AGS	C	34 C
188.	JP4623	Pohakea Elementary School, Oahu			
		Plan, design and construct a grill gate in Building A between classrooms A2 and A3.			
		PLANS			1
		DESIGN			2
		CONSTRUCTION			7
		TOTAL FUNDING	AGS	C	10 C
189.	HP1607	Puohala Elementary School, Oahu			
		Plans and design for extension and renovation of library.			
		PLANS			7
		DESIGN			23
		TOTAL FUNDING	AGS	C	30 C
190.	HP3913	Puuhale Elementary School, Oahu			
		Renovation of four type II classrooms to type I classrooms.			
		DESIGN			2
		CONSTRUCTION			18
		TOTAL FUNDING	AGS	C	20 C
191.	SP2012	Puuhale Elementary School, Oahu			
		Installation walls/partitions in classrooms.			
		DESIGN			3
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	23 C

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ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
192.	JP3920	Radford High School, Oahu			
		Design and construction of elevators for the handicapped to the 2nd floor of all two story buildings.			
		DESIGN			6
		CONSTRUCTION			75
		TOTAL FUNDING	AGS	C	81 C
193.	SP2013	Radford High School, Oahu			
		Design & construction of Industrial Arts building.			
		DESIGN			10
		CONSTRUCTION			55
		TOTAL FUNDING	AGS	C	65 C
194.	HP3801	Red Hill Elementary School, Oahu			
		Design and construction of sidewalks adjacent to Buildings C and D.			
		DESIGN			2
		CONSTRUCTION			13
		TOTAL FUNDING	AGS	C	15 C
195.	JP2714	Roosevelt High School, Oahu			
		Design and construction of press box facilities for football stadium and replacement of stadium lights.			
		DESIGN			21
		CONSTRUCTION			135
		TOTAL FUNDING	AGS	C	156 C
196.	HP2803	Roosevelt High School, Oahu			
		Design and construction of a tile wall for improvements to the swimming pool.			
		DESIGN			5
		CONSTRUCTION			60
		TOTAL FUNDING	AGS	C	65 C
197.	HP3103	Roosevelt High School, Oahu			
		Design and construction of an extension to the auto body shop to provide for an automobile painting shop.			
		DESIGN			3
		CONSTRUCTION			32
		TOTAL FUNDING	AGS	C	35 C
198.	HP3508	Royal Elementary School, Oahu			
		Improvements for parking lot drainage.			
		CONSTRUCTION			13
		TOTAL FUNDING	AGS	C	13 C

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			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
199.	HP4008	Salt Lake Elementary School, Oahu			
		Purchase and install room dividers, ventilation, entrance ways and electrical works for six classroom pods.			
		CONSTRUCTION			8
		EQUIPMENT			40
		TOTAL FUNDING	AGS	C	48 C
200.	SP2014	Salt Lake Elementary School, Oahu			
		Installation of fencing around back boundary of school campus.			
		DESIGN			1
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	21 C
201.	SP0705	Solomon Elementary School, Oahu			
		Design for expansion of a parking area.			
		DESIGN			20
		TOTAL FUNDING	AGS	C	20 C
202.	HP2704	Stevenson Intermediate School, Oahu			
		Improvements and renovations to the school site and school facilities.			
		DESIGN			2
		CONSTRUCTION			21
		TOTAL FUNDING	AGS	C	23 C
203.	HP3101	Stevenson Intermediate School, Oahu			
		Construction of safety fencing/back stop extension for the baseball field.			
		DESIGN			2
		CONSTRUCTION			18
		TOTAL FUNDING	AGS	C	20 C
204.	HP3102	Stevenson Intermediate School, Oahu			
		Replacement of transom windows with wooden louvers.			
		DESIGN			5
		CONSTRUCTION			75
		TOTAL FUNDING	AGS	C	80 C
205.	SP1405	Stevenson Intermediate School, Oahu			
		Replacement of windows in Room 218 to louvers.			
		DESIGN			3
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	13 C
206.	JP1307	Wahiawa Intermediate School, Oahu			
		Design and construction of a covered playground.			
		DESIGN			36

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		CONSTRUCTION			320
		TOTAL FUNDING	AGS	C	356 C
207.	JP1508	Waiahole Elementary School, Oahu			
		Design and construction of a covered playcourt.			
		DESIGN			16
		CONSTRUCTION			200
		TOTAL FUNDING	AGS	C	216 C
208.	SP0804	Waiahole Elementary School, Oahu			
		Design and construction of screen doors and windows of Building D.			
		DESIGN			1
		CONSTRUCTION			4
		TOTAL FUNDING	AGS	C	5 C
209.	JSP020	Waiakea Uka Elementary School, Hawaii			
		Master plan and design for a "new" elementary school in the Hilo area.			
		PLANS			87
		DESIGN			88
		TOTAL FUNDING	AGS	C	175 C
210.	HP1403	Waialua Elementary School, Oahu			
		Design and construction to install security fencing.			
		DESIGN			10
		CONSTRUCTION			40
		TOTAL FUNDING	AGS	C	50 C
211.	HP1401	Waialua High School, Oahu			
		Design and construction to renovate paint spray booth.			
		DESIGN			8
		CONSTRUCTION			39
		TOTAL FUNDING	AGS	C	47 C
212.	SP0703	Waialua High and Intermediate School, Oahu			
		Design and construction of a chain link fence around an agricultural area.			
		DESIGN			3
		CONSTRUCTION			11
		TOTAL FUNDING	AGS	C	14 C
213.	SP2403	Waianae Elementary School II Leihoku, Oahu			
		Design and construct parking lot turn around.			
		DESIGN			5
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	C	20 C

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			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
214.	HP4803	Waianae High School, Oahu			
		Plans, design and installation of lights in parking lot and along road to football field.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			50
		TOTAL FUNDING	AGS	C	60 C
215.	HP4804	Waianae High School, Oahu			
		Plans, design and construction of bleachers at baseball field.			
		PLANS			3
		DESIGN			4
		CONSTRUCTION			50
		TOTAL FUNDING	AGS	C	57 C
216.	SP2404	Waianae High School, Oahu			
		Design and construction of a greenhouse.			
		DESIGN			5
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	C	20 C
217.	HP4908	Waianae Intermediate School, Oahu			
		Plans, design and installation of ceiling fans in library.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			13
		TOTAL FUNDING	AGS	C	15 C
218.	HP4910	Waianae Intermediate School, Oahu			
		Plans, design and installation of security screens for Building J, Room J-9.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			8
		TOTAL FUNDING	AGS	C	10 C
219.	HP2406	Waikiki Elementary School, Oahu			
		Design and construction of a hard-top playing surface.			
		DESIGN			8
		CONSTRUCTION			67
		TOTAL FUNDING	AGS	C	75 C
220.	HP0803	Wailuku Elementary School, Maui			
		Construction of partitions to separate classrooms.			
		CONSTRUCTION			35
		TOTAL FUNDING	AGS	C	35 C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
221.	HP2307	Wailupe Valley Elementary School, Oahu			
		Plans and design to extend the existing library facilities and other improvements.			
		PLANS			3
		DESIGN			10
		TOTAL FUNDING	AGS	C	13 C
222.	HP5101	Waimea Canyon Elementary School, Kauai			
		Improvements to open drain on campus grounds by installing culverts.			
		CONSTRUCTION			70
		TOTAL FUNDING	AGS	C	70 C
223.	HP4509	Waipahu Elementary School, Oahu			
		Plan, design and construct a safety ramp from second floor of Building I to main campus.			
		PLANS			2
		DESIGN			2
		CONSTRUCTION			16
		TOTAL FUNDING	AGS	C	20 C
224.	JP4623	Waipahu Elementary School, Oahu			
		Design and construct walkway to the main campus complex from Waikele road.			
		DESIGN			9
		CONSTRUCTION			50
		TOTAL FUNDING	AGS	C	59 C
225.	JP4522	Waipahu High School, Oahu			
		Plan, design, renovate and expand auto paint booth.			
		PLANS			5
		DESIGN			10
		CONSTRUCTION			85
		TOTAL FUNDING	AGS	C	100 C
226.	SP2202	Waipahu High School, Oahu			
		Renovation and expansion of physical education/athletics weight room.			
		DESIGN			5
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	25 C
227.	JP4523	Waipahu Intermediate School, Oahu			
		Plan, design and construct asphalt triangle between Bionic Store and Waipahu Intermediate School.			
		PLANS			1
		DESIGN			2
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	C	8 C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
228.	JP4523	Waipahu Intermediate School, Oahu			
		Plan, design and construct asphalt base slope (approximately 400 square feet) in front of the school, adjacent to concrete steps leading to the administration building.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			3
		TOTAL FUNDING	AGS	C	5 C
229.	JP4523	Waipahu Intermediate School, Oahu			
		Plan, design and construct fence around playcourt between A Building and boys' locker room.			
		DESIGN			1
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	11 C
230.	SP2302	Waipahu Intermediate School, Oahu			
		Plan, design and install 25 security screens.			
		PLANS			2
		DESIGN			3
		EQUIPMENT			5
		TOTAL FUNDING	AGS	C	10 C
231.	HP3201	Washington Intermediate School, Oahu			
		Design and construction to renovate the physical education field by grading, installing a sprinkler system, and adding top soil to the existing field.			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	C	50 C
232.	HP3202	Washington Intermediate School, Oahu			
		Design and construction to install security screens.			
		DESIGN			7
		CONSTRUCTION			68
		TOTAL FUNDING	AGS	C	75 C
233.	HP1204	Wheeler Intermediate School, Oahu			
		Design for renovation of library with air conditioning.			
		DESIGN			42
		TOTAL FUNDING	AGS	C	42 C
234.	SP0707	Wheeler Intermediate School, Oahu			
		Design and construction of an irrigation system for the playground.			
		DESIGN			2

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	CONSTRUCTION			6
	TOTAL FUNDING	AGS	C	8 C
235.	HP2304 Wilson Elementary School, Oahu			
	Planning and construction of improvements at Wilson Elementary School and the Honolulu District Office of the DOE that is located on the school grounds.			
	PLANS			2
	CONSTRUCTION			13
	TOTAL FUNDING	AGS	C	15 C
EDN203 - School Administration				
236.	JP1508 Laie Elementary School, Oahu			
	Design and construction for the renovation of administration building.			
	DESIGN			6
	CONSTRUCTION			40
	TOTAL FUNDING	AGS	C	46 C
237.	SP2406 Waianae Elementary School, Oahu			
	Renovating existing classrooms into administration facilities.			
	PLANS			10
	CONSTRUCTION			90
	TOTAL FUNDING	AGS	C	100 C
238.	JP4924 Waianae Intermediate School, Oahu			
	Plans, design and installation of ceiling fans in administration building.			
	PLANS			2
	DESIGN			3
	CONSTRUCTION			15
	TOTAL FUNDING	AGS	C	20 C
239.	SP2206 Waiiau Elementary School, Oahu			
	Planning, design, and construction of Library-Administration complex.			
	PLANS			2
	DESIGN			3
	CONSTRUCTION			15
	TOTAL FUNDING	AGS	C	20 C
240.	HP4209 Waimalu Elementary School, Oahu			
	Design of new administration building.			
	DESIGN			52
	TOTAL FUNDING	AGS	C	52 C
241.	HP4501 Waipahu Intermediate School, Oahu			
	Plan, design, construct and install security screens in the administration building.			
	PLANS			2

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		DESIGN			2
		CONSTRUCTION			8
		TOTAL FUNDING	AGS	C	12 C
242.	JP4623	Waipahu Intermediate School, Oahu			
		Plan, design and construct protective railing, 32 feet long, for steps leading to the administration building in front of the school near the highway and traffic lights.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	C	7 C
EDN305 - School Food Services					
243.	HP4204	Aiea High School, Oahu			
		Design and construction to renovate cafeteria dining hall and stage area.			
		DESIGN			7
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	C	27 C
244.	SP2002	Aliamanu Elementary School, Oahu			
		Installation of ceiling fans in cafetorium.			
		DESIGN			1
		CONSTRUCTION			2
		TOTAL FUNDING	AGS	C	3 C
245.	HP1601	Heeia Elementary School, Oahu			
		Design and construction of improvements to kitchen.			
		DESIGN			5
		CONSTRUCTION			60
		TOTAL FUNDING	AGS	C	65 C
246.	HP4506	Honowai Elementary School, Oahu			
		Plan, design and install 14 overhead fans for cafeteria and kitchens and switches for existing ventilators in cafeteria and "A" pod.			
		PLANS			1
		DESIGN			1
		EQUIPMENT			13
		TOTAL FUNDING	AGS	C	15 C
247.	HP2403	Kahala Elementary School, Oahu			
		Purchase and installation of blowers over cafeteria doors.			
		CONSTRUCTION			1
		EQUIPMENT			1
		TOTAL FUNDING	AGS	C	2 C

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248.	SP0905	Kailua Intermediate School, Oahu			
		Renovation of cafetorium - lighting, stage, etc.			
		DESIGN			5
		CONSTRUCTION			60
		TOTAL FUNDING	AGS	C	65 C
249.	HP2102	Kamiloiki Elementary School, Oahu			
		Plans, design and construction for installation of floor to ceiling movable partition for cafetorium.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			60
		TOTAL FUNDING	AGS	C	70 C
250.	HP1705	Kapunahala Elementary School, Oahu			
		Plans, design and construct a mural in cafetorium.			
		PLANS			2
		DESIGN			3
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	C	15 C
251.	SP0801	Laie Elementary School, Oahu			
		Design and construction for expansion and improvement to cafetorium.			
		DESIGN			9
		CONSTRUCTION			70
		TOTAL FUNDING	AGS	C	79 C
252.	HP4206	Lehua Elementary School, Oahu			
		Installation of security screens for cafeteria.			
		DESIGN			2
		CONSTRUCTION			23
		TOTAL FUNDING	AGS	C	25 C
253.	HP3404	Maemae Elementary School, Oahu			
		Design and construction of wall for cafeteria.			
		DESIGN			2
		CONSTRUCTION			18
		TOTAL FUNDING	AGS	C	20 C
254.	JP4723	Mauka Lani Elementary School, Oahu			
		Design, construction and equipment for a new cafetorium.			
		DESIGN			50
		CONSTRUCTION			400
		EQUIPMENT			61
		TOTAL FUNDING	AGS	C	511 C

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
255.	SP2008	Moanalua High School, Oahu			
		Design and installation of ceiling fans in cafetorium.			
		DESIGN			1
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	C	6 C
256.	SP2011	Nimitz Elementary School, Oahu			
		Installation of curtains in school cafetorium.			
		DESIGN			1
		CONSTRUCTION			1
		TOTAL FUNDING	AGS	C	2 C
257.	HP4007	Radford High School, Oahu			
		Purchase and install 12 ceiling fans in the cafetorium.			
		CONSTRUCTION			1
		EQUIPMENT			2
		TOTAL FUNDING	AGS	C	3 C
258.	SP0706	Waialua High and Intermediate School, Oahu			
		Design for the expansion of the school dining room.			
		DESIGN			38
		TOTAL FUNDING	AGS	C	38 C
EDN407 - Public Libraries					
259.	SP2102	Aiea Public Library, Oahu			
		Design and construction of a chain link fence for Aiea Public Library.			
		DESIGN			5
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	C	20 C
260.	HP2201	Aina Haina Library Expansion, Oahu			
		Construction and/or equipment to expand library facility.			
		CONSTRUCTION			18
		EQUIPMENT			2
		TOTAL FUNDING	AGS	C	20 C
261.	SP1001	Kailua Library, Oahu			
		Planning, design & construction of restroom facilities for the handicapped.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			30
		TOTAL FUNDING	AGS	C	40 C

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262.	SP1307	Kaimuki Library, Oahu			
		Design and construction to upgrade and improve parking lot (correct traffic hazard).			
		DESIGN			1
		CONSTRUCTION			9
		TOTAL FUNDING	AGS	C	10 C
263.	HP3406	Liliha Library, Oahu			
		Design and construction of back door into an emergency exit.			
		DESIGN			1
		CONSTRUCTION			1
		TOTAL FUNDING	AGS	C	2 C
264.	HP3407	Liliha Library, Oahu			
		Design and installation of light switches in restrooms and front hallway.			
		DESIGN			1
		CONSTRUCTION			1
		TOTAL FUNDING	AGS	C	2 C
265.	SP1005	Waimanalo Community-School Library, Waimanalo, Oahu			
		Design and renovation of air conditioning system.			
		DESIGN			5
		CONSTRUCTION			30
		TOTAL FUNDING	AGS	C	35 C
UOH102 - Organized Research - UOH, Manoa					
266.	SP1406	Lyon Arboretum, Oahu			
		Design and construction for the improvement of roadway.			
		DESIGN			6
		CONSTRUCTION			40
		TOTAL FUNDING	UOH	C	46 C
UOH216 - Institutional Support - UOH, Hilo					
267.	JP0302	Research and Technology Park University of Hawaii, Hilo, Hawaii			
		Design, construction, and equipment for infrastructure improvements at the UHH mauka campus site to accommodate the future development and expansion of UHH's academic programs, including a research/technology park.			
		DESIGN			118
		CONSTRUCTION			232
		EQUIPMENT			50
		TOTAL FUNDING	UOH	C	400 C

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STATE OF HAWAII

				APPROPRIATIONS (IN DOLLARS)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
268. HP0202 Improvements - University of Hawaii, Hilo					
		Design and construction of covered walkways.			
		PLANS			5
		DESIGN			10
		CONSTRUCTION			135
		TOTAL FUNDING	UOH	C	150 C
UOH331 - Instruction - Windward Community College					
269. HP1703 Windward Community College, Oahu					
		Design and construction to renovate the Waipa Building.			
		DESIGN			6
		CONSTRUCTION			54
		TOTAL FUNDING	AGS	C	60 C
Culture and Recreation					
LNR801 - Historical and Archaeological Places					
1. HP3501 Children's Museum at the Historic Sewage Pumping Station, Oahu					
		Grant-in-aid: Plans and design for a children's museum utilizing the existing historic buildings and grounds on the designated site of TMK 2-1-57:1, corner of Keawe and Ala Moana Boulevard.			
		PLANS			5
		DESIGN			5
		TOTAL FUNDING	LNR	C	10 C
2. HP4904 Ho'opulapula Haraguchi Rice Mill, Kauai					
		Grant-in-aid: Construction for historic preservation phase II to restore mill interior pulley system and various chutes and machinery.			
		CONSTRUCTION			25
		TOTAL FUNDING	LNR	C	25 C
3. HP2901 Kukaniloko Birth Site, Oahu					
		Grant-in-aid: Acquisition of site and access way.			
		LAND			55
		TOTAL FUNDING	LNR	C	55 C
AGS881 - Performing and Visual Arts Events					
4. JP1005 Meyer Sugar Mill Museum, Molokai					
		Grant-in-aid: Design and construction of a cultural and historical museum in conjunction with the Meyer Sugar Mill.			
		DESIGN			10

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	C	100 C
5.	SP1-25	Bishop Museum, Oahu			
		Grant-in-aid: Construction of facility improvements at Bishop Museum.			
		CONSTRUCTION			400
		TOTAL FUNDING	LNR	C	400 C
LNR806 - Parks Recreation					
6.	SP2214	Aiea Rainbow Bay State Park, Oahu			
		Plans, design, and construction of a fishing pier and boat launching ramp and toilet facilities.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			3
		TOTAL FUNDING	LNR	C	5 C
7.	HP3105	Fort Armstrong - Kewalo Shorefront Park, Oahu			
		Design and construction for development of an oceanfront park.			
		DESIGN			2
		CONSTRUCTION			18
		TOTAL FUNDING	LNR	C	20 C
8.	HP4903	Haena State Park, Kauai			
		Construction to expand parking area and related park facilities.			
		CONSTRUCTION			50
		TOTAL FUNDING	LNR	C	50 C
9.	SP2215	Hale Mohalu, Oahu			
		Grant-in-aid: Plans and design of a new state park site.			
		PLANS			2
		DESIGN			3
		TOTAL FUNDING	LNR	C	5 C
10.	HP1605	Heeia State Park, Oahu			
		Miscellaneous improvements to Heeia State Park.			
		CONSTRUCTION			19
		TOTAL FUNDING	LNR	C	19 C
11.	HP2905	Honolulu Stadium State Recreation Area, Oahu			
		Construction and installation of outdoor exercise equipment at designated site.			
		CONSTRUCTION			2

CAPITAL IMPROVEMENT PROJECTS

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ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		EQUIPMENT			3
		TOTAL FUNDING	LNR	C	5 C
12.	JP1005	Lahaina Swimming Pool, Maui			
		Grant-in-aid: Plans, design, and construction for a public swimming pool in accordance with the Lahaina Recreation Center phasing plan.			
		PLANS			5
		DESIGN			10
		CONSTRUCTION			60
		TOTAL FUNDING	LNR	C	75 C
13.	JP1005	Lanai Swimming Pool, Lanai			
		Grant-in-aid: Plans and design for a public swimming pool to be used by members of the general public and high school on land donated by Dole Pineapple Company.			
		PLANS			25
		DESIGN			25
		TOTAL FUNDING	LNR	C	50 C
TRN801 - Ocean-Based Recreation					
14.	HP0422	Laupahoehoe Small Boat Harbor, Hawaii			
		Design and construction of small boat ramp and related navigational improvements, parking, turn-around area, and appurtenances. Unencumbered balances in Section I, Items W-2 and W-5, Act 287, SLH 1984, to be used in conjunction with this new appropriation, notwithstanding the lapsing provisions of Act 287, SLH 1984. This project is deemed necessary to qualify for federal-aid financing or reimbursement.			
		DESIGN			10
		CONSTRUCTION			90
		TOTAL FUNDING	TRN	C	100 C
15.	HP5109	Kikiaola Small Boat Harbor, Kauai			
		Design and construction of harbor improvements to include dredging.			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	TRN	C	50 C
16.	SP1801	Keehi Lagoon, Oahu			
		Design, construction and equipment for facilities to hoist and weigh deep sea game fish.			
		DESIGN			5
		CONSTRUCTION			25

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

			APPROPRIATIONS (IN DOLLARS)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F
				FISCAL M YEAR O 1986-87 F
		EQUIPMENT		5
		TOTAL FUNDING	TRN	35 C
17.	SP1802	Keehi Lagoon, Oahu		
		Design and construction of a comfort station for users of the Keehi Lagoon small boat launching ramp and loading dock.		
		DESIGN		20
		CONSTRUCTION		100
		TOTAL FUNDING	TRN	120 C
Public Safety				
SOC401 - Juvenile Correctional Facilities				
1.	HP1807	Olomana School, Hawaii Youth Correctional Facility, Oahu		
		Construction for expansion of the auto shop.		
		CONSTRUCTION		10
		TOTAL FUNDING	AGS	10 C
2.	HP1808	Olomana School, Hawaii Youth Correctional Facility, Oahu		
		Installation of air conditioning in four classrooms.		
		CONSTRUCTION		1
		EQUIPMENT		3
		TOTAL FUNDING	AGS	4 C
3.	HP1809	Olomana School, Hawaii Youth Correctional Facility, Oahu		
		Construction for minor renovation of bathroom at Olomana School.		
		CONSTRUCTION		1
		TOTAL FUNDING	AGS	1 C
4.	HP1810	Olomana School, Hawaii Youth Correctional Facility, Oahu		
		Renovation of the art classroom.		
		CONSTRUCTION		1
		TOTAL FUNDING	AGS	1 C
5.	HP1811	Olomana School, Hawaii Youth Correctional Facility, Oahu		
		Construction of a portable classroom.		
		CONSTRUCTION		40
		TOTAL FUNDING	AGS	40 C

CAPITAL IMPROVEMENT PROJECTS

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			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
SOC409 - Hawaii Women's Correctional Facility					
	6.	SP1003 Womens' Community Correctional Center, Oahu			
		Design and construction for improvements to roadway from entrance to Maluhia Cottage.			
		DESIGN			5
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	C	20 C
LNR810 - Prevention of Natural Disasters					
	7.	JP3918 Kapalama Canal, Oahu			
		Grant-in-Aid: Design and construction for beautification and incremental clean-up of Kapalama Canal.			
		DESIGN			10
		CONSTRUCTION			90
		TOTAL FUNDING	LNR	C	100 C
DEF110 - Amelioration of Physical Disasters					
	8.	HP0402 Honokaa Armory, Hawaii			
		Plans, design and improvement of the Honokaa Armory to include refinishing of the drill hall and gymnasium floor. Work also to include improvements to the basketball backboards and gym score-board.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			13
		TOTAL FUNDING	AGS	C	15 C
	9.	SP1301 Department of Defense Administration Building, Oahu			
		Design and construction to upgrade and improve sprinkler system.			
		DESIGN			1
		CONSTRUCTION			7
		TOTAL FUNDING	AGS	C	8 C
	10.	SP1302 Department of Defense, Fronting 22nd Avenue, Oahu			
		Design and construction to improve and repair sidewalk.			
		DESIGN			1
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	C	6 C
	11.	SP2504 Kapaa National Guard Armory, Kauai			
		Design and construction to replace roof.			

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		DESIGN			4
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	C	19 C

Government-Wide Support

LNR101 - Public Lands Management

1. SP1101 Queen's Beach, East O'ahu

Grant-in-Aid: Acquisition of land for park.

LAND				100
TOTAL FUNDING	LNR	C		100 C

2. SP1303 Unused or Abandoned Buildings, Diamond Head Road, Oahu

Demolish unused abandoned Buildings #49 and #6, restorative cleaning or groundcover.

DESIGN				5
CONSTRUCTION				40
TOTAL FUNDING	LNR	C		45 C

3. SP1304 Unused or Abandoned Buildings, Diamond Head Road, Oahu

Demolish unused abandoned Buildings #41, #42, & #43 restorative cleaning and groundcover.

DESIGN				5
CONSTRUCTION				30
TOTAL FUNDING	LNR	C		35 C

AGS221 - Construction

4. HP2605 Kapahulu Senior Citizens Center, Oahu

Grant-in-aid: Design and construction for a multi-purpose room. Unexpended balance in item III-U-22 of Act 287, SLH 1984, shall be used for this project.

CONSTRUCTION				1
TOTAL FUNDING	AGS	C		1 C

5. HP4510 Leeward Civic Center, Oahu.

Plan, design and construct paved access road on Mokuola Street.

PLANS				5
DESIGN				5
CONSTRUCTION				40
TOTAL FUNDING	AGS	C		50 C

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
6.	HP3507	Mililani Mall, Oahu			
		Design of the Mililani Mall between Queen and Halekauwila Streets as part of the Keelikolani Building project.			
		DESIGN			20
		TOTAL FUNDING	AGS	C	20 C
7.	SP1803	Puea Cemetery, Oahu			
		Design and construction of a wall along the diamond head boundary of Puea Cemetery.			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	C	50 C
8.	HP2407	Variety Club School, Oahu			
		Grant-in-aid: Playground reconstruction.			
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	C	5 C
AGS233 - Building Repairs and Alterations					
9.	HP3002	Waikiki Community Center, Oahu			
		Painting of Building "1", administration and health buildings.			
		CONSTRUCTION			50
		TOTAL FUNDING	AGS	C	50 C
SUB201 - City & County of Honolulu					
10.	HP2309	Aina Haina Playground, Oahu			
		Design and construction of improvements to the pavillion to allow better utilization for community activities.			
		DESIGN			1
		CONSTRUCTION			3
		TOTAL FUNDING	CCH	C	4 C
11.	SP2001	Traffic Light at Intersection of Ala Mahamoe & Jarrett White Road, Oahu			
		Design and construction of a traffic light at intersection of Ala Mahamoe & Jarrett White Road.			
		DESIGN			15
		CONSTRUCTION			100
		TOTAL FUNDING	CCH	C	115 C
12.	HP3802	Intersection of Beckley and Kalihi Streets, Oahu			
		Installation of traffic signals at the intersection of Beckley and Kalihi Streets.			
		DESIGN			10

CAPITAL IMPROVEMENT PROJECTS

STATE OF HAWAII

ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		CONSTRUCTION			100
		TOTAL FUNDING	CCH	C	110 C
13.	JP1810	Intersection of Kailua Road and Ulumanu Street, Oahu			
		Design and construction of traffic signals.			
		DESIGN			15
		CONSTRUCTION			100
		TOTAL FUNDING	CCH	C	115 C
14.	HP2308	Kaimuki Recreation Center, Oahu			
		Plans and construction for improvements.			
		PLANS			1
		CONSTRUCTION			7
		TOTAL FUNDING	CCH	C	8 C
15.	HP3004	Police Sub-Station on Kalakaua Avenue, Oahu			
		Renovations and equipment to construct a police sub-station on Kalakaua Avenue.			
		CONSTRUCTION			22
		EQUIPMENT			3
		TOTAL FUNDING	CCH	C	25 C
16.	HP2001	Kalaniana'ole Highway, Oahu			
		Design and installation of a pedestrian traffic light located on Kalaniana'ole Highway between Poalima and Inaole Streets in front of Waimanalo Elementary and Intermediate School.			
		DESIGN			8
		CONSTRUCTION			75
		TOTAL FUNDING	CCH	C	83 C
17.	HP1702	Kaneohe Bay Drive, Oahu			
		Plans and design for road improvements.			
		PLANS			5
		DESIGN			46
		TOTAL FUNDING	CCH	C	51 C
18.	HP1709	Kaneohe District Park, Oahu			
		Design and construction of further development of park.			
		DESIGN			5
		CONSTRUCTION			35
		TOTAL FUNDING	CCH	C	40 C

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			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
19.	SP1906	City and County of Honolulu - Kapalama Canal, Oahu			
		Design and construction for improvements to the canal banks.			
		DESIGN			25
		CONSTRUCTION			225
		TOTAL FUNDING	CCH	C	250 C
20.	JP2412	New Traffic Signal at Kilauea Avenue Intersection, Oahu			
		Installation of new traffic signal at corner of Kilauea and Waialae facilitating two, instead of one, left-turn lanes going mauka on Kilauea to turn left onto Waialae.			
		DESIGN			10
		CONSTRUCTION			120
		EQUIPMENT			20
		TOTAL FUNDING	CCH	C	150 C
21.	HP2303	Kilauea Avenue and Hunakai Street Intersection, Oahu			
		Installation of traffic signals.			
		CONSTRUCTION			35
		TOTAL FUNDING	CCH	C	35 C
22.	JP2512	La-i Road, Oahu			
		Plans, design, and construction for a water main and appurtenances along La-i Road.			
		PLANS			25
		DESIGN			25
		CONSTRUCTION			250
		TOTAL FUNDING	CCH	C	300 C
23.	HP3409	Lanakila Park, Oahu			
		Improvements to drainage near restroom facility.			
		CONSTRUCTION			8
		TOTAL FUNDING	CCH	C	8 C
24.	HP3410	Liliuokalani Gardens Park, Oahu			
		Design and construction of trails.			
		DESIGN			2
		CONSTRUCTION			8
		TOTAL FUNDING	CCH	C	10 C
25.	HP3502	Community Center at the Old Linekona School, Oahu			
		Planning and design of a multi-purpose community center utilizing the historic structure and grounds located at the site of the Old Linekona School.			
		PLANS			5

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ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
		DESIGN			5
		TOTAL FUNDING	CCH	C	10 C
26.	HP4202	Makalapa Community Center, Oahu			
		Removal of existing flooring in facility restroom and installation of new flooring.			
		DESIGN			1
		CONSTRUCTION			7
		TOTAL FUNDING	CCH	C	8 C
27.	HP3203	Moiiliili Community Center, Oahu			
		Design and construction to renovate the courtyard by paving or landscaping to create usable space.			
		DESIGN			3
		CONSTRUCTION			27
		TOTAL FUNDING	CCH	C	30 C
28.	HP2904	Moiiliili Field, Oahu			
		Construction and installation of outdoor exercise equipment at designated site.			
		CONSTRUCTION			2
		EQUIPMENT			3
		TOTAL FUNDING	CCH	C	5 C
29.	HP3411	Napueo Park, Alewa Heights, Oahu			
		Design and construction of a park.			
		DESIGN			5
		CONSTRUCTION			40
		TOTAL FUNDING	CCH	C	45 C
30.	HP4905	Poka'i Bay Beach Park, Oahu			
		Purchase and install "par course" system.			
		CONSTRUCTION			8
		TOTAL FUNDING	CCH	C	8 C
31.	HP3104	Safety Improvements to Round Top Drive and Tantalus Road, Oahu			
		Design and construction of safety improvements to include barriers to protect property, road widening and shoulder improvements.			
		DESIGN			10
		CONSTRUCTION			90
		TOTAL FUNDING	CCH	C	100 C
32.	HP3509	Thomas Square Park, Oahu			
		Plans and design for lights.			
		PLANS			2
		DESIGN			3
		TOTAL FUNDING	CCH	C	5 C

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ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN DOLLARS)	
				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
33.	SP1501	Varsity Place-Kalo Place to University Avenue, Oahu			
		Design and construction of a 400 foot sidewalk and street curb.			
		DESIGN			5
		CONSTRUCTION			20
		TOTAL FUNDING	CCH	C	25 C
34.	HP3408	Vineyard Boulevard and Aala Street, Oahu			
		Design of a pedestrian overpass.			
		DESIGN			23
		TOTAL FUNDING	CCH	C	23 C
35.	SP2402	Waianae District - 86-707 Puuhulu Road, Oahu			
		Design and construction to relocate drainage ditch at 86-707 Puuhulu Road, Waianae.			
		DESIGN			5
		CONSTRUCTION			15
		TOTAL FUNDING	CCH	C	20 C
36.	HP3412	Waikahalulu Lane, Oahu			
		Improvements for drainage control.			
		CONSTRUCTION			10
		TOTAL FUNDING	CCH	C	10 C
37.	SP2319	Waipahu Cultural Garden Park, Oahu			
		Design and construction for roadway and parking.			
		DESIGN			2
		CONSTRUCTION			15
		TOTAL FUNDING	CCH	C	17 C
38.	SP2320	Waipahu Cultural Garden Park, Oahu			
		Design and construction for lighting of the park.			
		DESIGN			1
		CONSTRUCTION			9
		TOTAL FUNDING	CCH	C	10 C
39.	SP2321	Waipahu Cultural Garden Park, Oahu			
		Design and construction of a pedestrian footpath and security (fencing).			
		DESIGN			3
		CONSTRUCTION			20
		TOTAL FUNDING	CCH	C	23 C

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			APPROPRIATIONS (IN DOLLARS)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
40.	HP3005	Waterline Relocations, Waikiki, Oahu			
		Planning and engineering for waterline relocations on Seaside, Royal Hawaiian and Lewers Streets, and at Kalaimoku and Olohana Streets.			
		PLANS			55
		TOTAL FUNDING	CCH	C	55 C
41.	HP2502	Water Main Fronting Hokulani School Entrance, Oahu			
		Relocation of water main at entrance of school because of bus stop at present location.			
		PLANS			3
		DESIGN			2
		CONSTRUCTION			70
		TOTAL FUNDING	CCH	C	75 C
42.	HP2804	Wheelchair Ramps, 28th District, Oahu			
		Design and construction of wheelchair ramps for the university area.			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	CCH	C	50 C
SUB301 - County of Hawaii					
43.	JP0401	County of Hawaii Water Projects			
		Land acquisition, plans, design and construction for incremental development of water systems, including source developments, pipelines, booster pump stations, storage facilities, improvements to existing water systems and necessary appurtenances. (To be expended by the Department of Water Supply.)			
		PLANS			15
		LAND			50
		DESIGN			20
		CONSTRUCTION			175
		TOTAL FUNDING	COH	C	260 C
44.	HP0203	Renovation, Former Hilo Memorial Hospital, Hawaii County			
		Design and construction for renovation of a wing of the former Hilo Memorial Hospital for use as a day care center for senior citizens afflicted with Alzheimers or related disorders.			
		DESIGN			10
		CONSTRUCTION			95
		TOTAL FUNDING	COH	C	105 C

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				FISCAL M YEAR O 1985-86 F	FISCAL M YEAR O 1986-87 F
45.	SP0101	Rifle Range in Puuanahulu, No. Kona, Hawaii Plans, design, and construction of a rifle range in Puuanahulu, No. Kona, Hawaii.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			40
		TOTAL FUNDING	COH	C	50 C
46.	SP0102	Gym Complex at Old Kona Airport, Hawaii Design and planning gym complex at Old Kona Airport, Hawaii.			
		PLANS			50
		DESIGN			50
		TOTAL FUNDING	COH	C	100 C
47.	SP0202	Lt. Col. Ellison Onizuka Memorial, Hawaii Design, construction, necessary renovation and installation for the Lt. Col. Ellison Onizuka Memorial at the Kona Airport and at the Mid-level Orientation Center at Hale Pohaku.			
		DESIGN			10
		CONSTRUCTION			65
		TOTAL FUNDING	COH	C	75 C
48.	SP0301	Papaikou Gym, Hawaii Planning, design and construction of a gym at Papaikou, Hawaii.			
		PLANS			25
		DESIGN			25
		CONSTRUCTION			300
		TOTAL FUNDING	COH	C	350 C
SUB401 - County of Maui					
49.	SP0403	Puunene Day Care Center, Maui Design and construction for the renovation of building at former Puunene School, Maui for an Elderly Day Care Center.			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	COM	C	50 C
50.	SP0402	Up Country Community Center, Maui Plans, design and construction of a community center building at Pukalani, County of Maui. Funds appropriated in Act 287, SLH 1984, Item II-V-2 may be used for this purpose.			
		PLANS			5

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		DESIGN			5
		CONSTRUCTION			90
		TOTAL FUNDING	COM	C	100 C

SUB501 - County of Kauai

51. SP2505 Prince Kuhio Canoe, Kauai

Design and construction for the restoration of the Prince Kuhio Canoe.

DESIGN			5
CONSTRUCTION			10
TOTAL FUNDING	COK	C	15 C

SECTION 3. Any law to the contrary notwithstanding, the appropriations in the following acts and items therein in the amounts indicated or balances thereof are hereby lapsed:

A. Act 283, Session Laws of Hawaii 1983, section 2, as amended:

<u>Item No.</u>	<u>Amount</u>
(1) IIIA1	\$ 60,000
(2) IC2	10,000
(3) IC3	15,000
(4) IIC1	50,000
(5) IIC5	200,000
(6) IIC6	15,000
(7) IIC7	2,600
(8) IIC8	150,000
(9) IIC9	100,000
(10) IIC11	10,000
(11) ID5	5,000
(12) IID3	5,000
(13) IID4a	60,000
(14) IID4b	25,000
(15) IID9	5,000
(16) IID10	150,000
(17) IE1	25,000
(18) IE2	40,000
(19) IE3a	25,000
(20) IE5	330,750
(21) IE6	350,000
(22) IIE2b	14,250
(23) IIE3	50,000
(24) IIE1	50,000
(25) IIE2	50,000
(26) IIE4	10,000
(27) IIE5	53,000
(28) IIE6	20,000
(29) IIE14	2,260

(30)	III E16	15,000
(31)	III E21	19,000
(32)	III E22	40,000
(33)	III E27a	125,000
(34)	III E35b	25,000
(35)	III E38a	113,000
(36)	III E38b	9,000
(37)	III E39	25,000
(38)	III E45	100,000
(39)	III E46	64,000
(40)	III E47	20,000
(41)	III E49a	5,000
(42)	III E49b	5,000
(43)	III E50	20,000
(44)	III E51a	10,000
(45)	III E51b	20,000
(46)	III E52	25,000
(47)	III E55	70,000
(48)	III E56	5,000
(49)	III E57	25,000
(50)	III E59	25,000
(51)	III E62	3,000
(52)	III E63a	155,000
(53)	III E63b	29,000
(54)	III E66a	20,000
(55)	III E66b	5,000
(56)	III E67	60,000
(57)	III E68a	21,000
(58)	III E73b	25,000
(59)	III E74	12,000
(60)	III E78	50,000
(61)	III E81	3,000
(62)	III E82	16,500
(63)	III E86	1,000
(64)	III E90	35,700
(65)	III E91a	50,000
(66)	III E91b	100,000
(67)	III E93	14,000
(68)	III E94	150,000
(69)	III E95	50,000
(70)	III E98	14,000
(71)	III E100	46,000
(72)	III E104	10,000
(73)	III E105	50,000
(74)	III M3	40,000
(75)	IM1	20,000
(76)	IV M1	200,000

B. Act 287, Session Laws of Hawaii 1984, section 2, as amended:

<u>Item No.</u>	<u>Amount</u>
(1) IC2	\$ 15,000
(2) IC4	5,000
(3) IIIC1a	50,000
(4) IIIC1b	200,000
(5) IIIC3	785,000
(6) IIIC4	20,000
(7) IIIC5	50,000
(8) IIIC8	60,000
(9) IIIC10b	150,000
(10) IIIC12	150,000
(11) ID3	50,000
(12) ID15	40,000
(13) ID16a	10,000
(14) IID1	300,000
(15) IID3a	80,000
(16) IID7a	70,000
(17) IID11	125,000
(18) IID13	50,000
(19) IID14	100,000
(20) IID15	150,000
(21) IID18	27,000
(22) IID19	350,000
(23) IID25	158,000
(24) IID26	14,000
(25) IE4c	30,000
(26) IE5b	40,000
(27) IE11b	15,000
(28) IE12b	15,000
(29) IIIE5a	60,000
(30) IIIE12b	67,000
(31) IIIE13	100,000
(32) IIIE27	40,000
(33) IIIE28b	350,000
(34) IIIE32c	40,000
(35) IIIE34	6,000
(36) IIIE37	200,000
(37) IIIE45	50,000
(38) IIIE47a	20,000
(39) IIIE47b	62,000
(40) IIIE47c	50,000
(41) IIIE47d	150,000
(42) IIIE47e	10,000
(43) IIIE47f	20,000
(44) IIIE47g	20,000
(45) IIIE48	50,000
(46) IIIE54	75,000
(47) IIIE55	10,000
(48) IIIE66	25,000
(49) IIIE70	50,000
(50) IIIE71	41,000
(51) IIIE75	1,000

(52)	IIIE78b	30,000
(53)	IIIE80c	9,000
(54)	IIIE82a	62,000
(55)	IIIE82b	250,000
(56)	IIIE84b	50,000
(57)	IIIE92c	50,000
(58)	IIIE96a	33,000
(59)	IIIE98c	4,000
(60)	IIIE101a	50,000
(61)	IIIE107	5,000
(62)	IIIE108c	40,000
(63)	IIIE110	500,000
(64)	IIIE117	80,000
(65)	IIIE119	45,000
(66)	IIIE120	30,000
(67)	IIIE122	25,000
(68)	IIIE123	10,000
(69)	IIIE125	45,000
(70)	IIIE132	150,000
(71)	IIIE140	5,000
(72)	IIIE142a	60,000
(73)	IIIE144	100,000
(74)	IVE6	50,000
(75)	IF1	200,000
(76)	IH2	25,000
(77)	IH3	15,000
(78)	IIIK2	20,000
(79)	IIIU29	195,000
(80)	IIIF6	25,000
(81)	IIIM1	400,000
(82)	IIIM2	325,000
(83)	IIIM3A	10,000
(84)	IIIM3B	25,000
(85)	IIIM5	50,000
(86)	IIIM8	4,000
(87)	IIIM10	100,000
(88)	IIIM12	50,000
(89)	IVF1	72,000

SECTION 4. Any law to the contrary notwithstanding, the unencumbered balance of the following appropriations under Act 291, Session Laws of Hawaii 1983, Section 13, as amended by Act 286, Session Laws of Hawaii 1984 in the amount indicated is lapsed:

<u>Item No.</u>	<u>Capital Project</u>	<u>Amount</u>
8	Molokai District Court, Construction and Equipment	\$761,000

SECTION 5. Any law to the contrary notwithstanding, the unencumbered balance of the following appropriations under Act 301, Session Laws of Hawaii 1983, Section 80, as amended by Act 285, Session Laws of Hawaii 1984 in the amounts indicated are lapsed:

Item No.	Capital Project	Project Number	Amount
C26	Kewalo Basin Improvements, Construction	J12	\$1,490,000
H4	Kealahou Bay, Construction	F14	500,000
H15	Rainbow Bay, Construction	F83	450,000
H18F	Kaulana Boat Launching Facility, Design and Construction	18H	50,000
G56	Kapiolani CC - Energy Conservation Measures	B07	101,000

SECTION 6. The appropriations and authorizations in section 2 of this Act include land purchase, plans, design site preparation, improvements to land, construction, and necessary equipment.

SECTION 7. Where an agency is able to secure funds or other property from private organizations or individuals, to be expended or utilized in connection with any program authorized by this Act, the governor, or agency with the governor's approval, shall have the power to enter into each undertaking.

SECTION 8. If the State should assume direct operation of any nongovernmental agency receiving state funds under the provisions of this Act, all such funds shall constitute a credit to the State against the costs of acquiring all or any portion of the property, real, personal, or mixed, or such nongovernmental agency. The credit shall be applicable regardless of when such acquisition takes place.

SECTION 9. Any law or any provision of this Act to the contrary notwithstanding, all authorizations for capital improvement projects made for fiscal year 1986-87 which are unencumbered as of June 30, 1988 shall lapse as of that date, provided that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement if the legislature redetermines that such projects are essential.

SECTION 10. Act 283, Session Laws of Hawaii 1983, section 2, Part III, Item M-5, is amended to read:

"5. [Kalanil'ua Kaiser High School, Oahu 250,000
Funds for additional football field bleachers, ticket booths, girls' restroom, lighting, renovation of press box and resurfacing of track and field."

SECTION 11. Act 287, Session Laws of Hawaii 1984, is amended:

- (1) By amending Section 2, Part III, Item E-65a to read:
"65. Niu Valley Intermediate School \$150,000
a. Extension, expansion, and/or renovation
[Renovation! of library (includes completion and restoration of air conditioning).]"
- (2) By amending Section 2, Part I, Item W-2 to read:
"2. Laupahoehoe Small Boat Ramp, \$100,000
Laupahoehoe, Hawaii Design and construction of small boat ramp and related navigational improvements, parking, turn-around area and appurtenances at Laupahoehoe, Hawaii. This project is

deemed necessary to qualify for Federal-Aid financing or reimbursement."

(3) By amending Section 2, Part I, Item W-5 to read:

"5. Laupahoehoe Small Boat Ramp, \$150,000
Hawaii Plans and construction of small boat ramp, related navigational improvements, parking lot, and appurtenances. This project is deemed necessary to qualify for Federal-Aid financing or reimbursement."

(4) By amending Section 9 to read:

"SECTION 9. Any law or any provision of this Act to the contrary notwithstanding, all authorizations for capital improvement projects made for fiscal year 1984-1985 which are unencumbered as of June 30, [1987] 1986 shall lapse as of that date, provided further, that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement if the legislature redetermines that such projects are essential."

SECTION 12. If general obligation bond proceeds have been allocated to an authorization which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such authorization, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other authorizations which may be satisfied from general obligation bond proceeds made in the same or any other act of the legislature; provided that a report of such allocations for the period ending December 31 of each calendar year shall be made to the legislature by February 1, of the following year.

SECTION 13. The designated expending agency for capital improvements authorized in this Act is authorized to delegate to other state or county agencies the acquisition of land, design, and construction of such projects when it is determined by such agency that it is advantageous to do so; provided that a report of all such delegations for the period ending December 31 of each calendar year shall be made to the first regular session of the legislature convened after such delegations have been made.

SECTION 14. Where county capital improvement projects are partially or totally funded by state funds as authorized in this Act or any other act of the legislature, this fact should be appropriately acknowledged during construction and upon completion of these projects.

SECTION 15. The negotiation for the purchase of land by state agencies shall be subject to the approval of the governor. Private lands may be acquired for the purpose of exchange for federal lands when the governor determines that such acquisition and exchange are necessary for the completion of any projects authorized in this Act.

SECTION 16. Any law or any provision to the contrary notwithstanding, the governor may supplement funds for any early-phased cost element (design or land) for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds authorized for later-phased cost elements (land or construction) for the same project authorized by the legislature in this Act or in a prior year or which may be authorized by the legislature in the future, provided that the total expenditure of funds for all cost elements for the project shall not exceed the total authorization for that project.

SECTION 17. Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction

in the scope of a capital improvement project described in this Act, the governor may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the authorization for a project is insufficient.

SECTION 18. In releasing funds for projects, the governor shall consider the legislative intent and the objectives of the user agency, its programs, the scope and level of the user agency's intended services; the means, efficiency, and economics by which the project will meet the objectives of the user agency and the State. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

SECTION 19. No authorization in this Act shall be considered to be a mandate under Article VIII, Section 5 of the State Constitution, for a political subdivision to undertake new programs or to increase the level of services under existing programs of that political subdivision. If any authorization in this Act falls within the provision of Article VIII, Section 5 of the State Constitution, such authorization shall be void, and in the case of capital improvement authorizations designated to be financed from the general obligation bond fund, the total general obligation bonds authorized under section 2 of this Act shall be correspondingly decreased.

SECTION 20. If the amount specified for any capital improvement project is not totally required to complete the work of such project or after it is definitely found by the expending officer that not more than a specified amount will be required to complete such work, such unrequired amount may be expended with the approval of the governor for any other capital improvement project authorized by the legislature in this Act.

SECTION 21. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific authorization is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such authorization to the extent possible. If any portion of a specific lapse is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be lapsed to fulfill the objective of such lapse to the extent possible.

SECTION 22. If manifest clerical, typographical, or other mechanical errors are found in this Act, the governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 23. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 24. This Act shall take effect upon its approval.

(Approved June 13, 1986.)

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act shall be known as the Judiciary Supplemental Appropriations Act of 1986.

SECTION 2. This Act amends Act 169, Session Laws of Hawaii 1985.

SECTION 3. Section 3, Act 169, Session Laws of Hawaii 1985, is amended to read:

"SECTION 3. Appropriations. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 1985, and ending June 30, 1987. The total expenditures and the number of permanently established positions in each fiscal year of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

Item No.	Program	Program ID	M FY O 1985-1986 F	M FY O 1986-1987 F	Total Biennium 1985-87	M O F
THE JUDICIAL SYSTEM						
1	Court Operations					
	Court of Appeal Operating	JUD 101	59.00* 2,650,649A	59.00* 2,601,912A	5,252,561A	
2	Circuit Courts Operating	JUD 111	319.00* 11,143,803A 154,317N	319.00* 10,925,544A 162,033N	22,069,347A 316,350N	
3	Family Courts Operating	JUD 112	276.50* 9,766,712A 184,800N	276.50* 9,823,186A 184,800N	19,589,898A 369,600N	
4	District Courts Operating	JUD 121	617.50* 13,576,111A 52.00* 1,251,052B	626.50* 13,459,316A 53.00* 1,272,944B	27,035,427A 2,523,996B	
	Support Services					
5	Administrative Director Services Operating Investment:	JUD 201 Capital	114.00* 7,263,587A 13,014,000C	114.00* 7,953,157A 300,000C	15,216,744A 13,314,000C"	

SECTION 4. Act 169, Session Laws of Hawaii 1985, Part II is amended:

(1) By adding a new Section to read:

“SECTION 9A. Provided that of the general fund appropriation for the family courts (JUD 112), the sum of \$34,920 in fiscal year 1986-87 shall be provided for repair and maintenance at the detention facility on Oahu.”

(2) By adding a new Section to read:

“SECTION 9B. Provided that of the general fund appropriation for the family courts (JUD 112), the sum of \$526,850 in fiscal year 1986-87 shall be provided for payment of attorney and guardian ad litem fees.”

(3) By adding a new Section to read:

“SECTION 9C. Provided that of the general fund appropriation for the administrative director services (JUD 201), the sum of \$193,675 in fiscal year 1986-87 shall be expended for purchases of service for the mediation services program.”

(4) By adding a new Section to read:

“SECTION 9D. Provided that of the general fund appropriation for the administrative director services (JUD 201), the sum of \$449,595 in fiscal year 1986-87 shall be transferred to the department of accounting and general services to pay for the judiciary branch’s portion of the statewide CENTREX telephone bill.”

(5) By adding a new Section to read:

“SECTION 9E. Provided that of the general fund appropriation for the administrative director services (JUD 201), the sum of \$920,414 in fiscal year 1986-87 shall be provided for rental of land/building costs; provided further that this sum includes funds to be used for rental of temporary office space for employees during the renovation of Ali’iolani Hale; provided further that the sum of \$10,000 in fiscal year 1986-87 shall be provided for moving expenses.”

(6) By adding a new Section to read:

“SECTION 9F. Provided that of the general fund appropriation for the administrative director services (JUD 201), the sum of \$162,334 in fiscal year 1986-87 shall be provided for repair and maintenance, and the sum of \$38,327 in fiscal year 1986-87 shall be provided for water; provided further that these funds shall be used to maintain Ali’iolani Hale.”

(7) By adding a new Section to read:

“SECTION 9G. Provided that of the general fund appropriation for the administrative director services (JUD 201), the sum of \$151,712 in fiscal year 1986-87 shall be expended for purchases of service for counseling the abusers and victims of violence by the Family Courts.”

SECTION 5. In the event manifest clerical, typographical, or other mechanical errors are found in the Act, the chief justice is authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. Notwithstanding the provisions of section 23G-16.5, Hawaii Revised Statutes, in printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.¹

PROPOSED CONSTITUTIONAL AMENDMENT

SECTION 7. Nothing in this Act shall affect the validity or continuing effectiveness of any provision of Act 169, Session Laws of Hawaii 1985, not repealed or modified by this Act.

SECTION 8. This Act shall take effect on July 1, 1986.

(Approved June 13, 1986.)

Note

1. Edited accordingly.

PROPOSED CONSTITUTIONAL AMENDMENT H.B. NO. 1954-86

A Bill for an Act Proposing an Amendment to Article III, Section 10, of the Hawaii Constitution to Change the Legislative Session Recess Requirement.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to propose an amendment to Article III, section 10, of the Constitution of the State of Hawaii to allow recesses to occur at some time or times after the date that all bills to be considered in a regular session are introduced, rather than at some period between the twentieth and fortieth days of the regular session, and to require the dates of the mandatory recess to be determined by concurrent resolution adopted by a majority vote of the members of each house.

SECTION 2. Article III, section 10, of the Constitution of the State of Hawaii is amended to read as follows:

"SESSIONS

Section 10. The legislature shall convene annually in regular session at 10:00 o'clock a.m. on the third Wednesday in January.

At the written request of two-thirds of the members to which each house is entitled, the presiding officers of both houses shall convene the legislature in special session. At the written request of two-thirds of the members of the senate, the president of the senate shall convene the senate in special session for the purpose of carrying out its responsibility established by Section 3 of Article VI. The governor may convene both houses or the senate alone in special session.

Regular sessions shall be limited to a period of sixty days, and special sessions shall be limited to a period of thirty days. Any session may be extended a total of not more than fifteen days. Such extension shall be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the governor.

Each regular session shall be recessed for a total of not less than five days at some period between the twentieth and fortieth days of the regular session.] after the date by which all bills to be considered in a regular session shall be introduced. The legislature shall determine the dates of the mandatory recess by concurrent resolution[.] adopted by a majority vote of the members of which each house is entitled. Any session may be recessed by concurrent resolution adopted by a majority of the members to which each house is entitled. Saturdays, Sundays, holidays, the days in mandatory recess and any days in recess pursuant to a concurrent resolution shall be excluded in computing the number of days of any session.

PROPOSED CONSTITUTIONAL AMENDMENT

All sessions shall be held in the capital of the State. In case the capital shall be unsafe, the governor may direct that any session be held at some other place."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the legislative session recess requirement be changed to allow recesses to occur at a time or times to be determined by concurrent resolution after the date that all bills to be considered in a regular session are introduced, rather than to allow recesses to occur only at some period between the twentieth and fortieth days of the regular session?"

SECTION 4. Constitutional material to be repealed is bracketed. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

COMMITTEE REPORTS
ON MEASURES ENACTED AND VETOED

TABLES SHOWING EFFECT
OF ACTS

GENERAL INDEX

COMMITTEE REPORTS ON MEASURES ENACTED AND VETOED

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Together with the Pertinent Committee Report References,
Listed by Act Numbers

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2	SB 92	467	48-86	
3	HB 107	398-86	265	
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16	SB 2358	433-86	737-86	
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27	HB 2115	650-86	346-86	
28	HB 2516	826-86	551-86	
29	HB 1716	775-86	309-86	
30	HB 2836	772-86	275-86	
			461-86	
31	HB 1830	625-86	325-86	
32	HB 2008	722-86	228-86	
			562-86	
33	HB 2128	627-86	322-86	
34	HB 2360	797-86	237-86	
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36	HB 1977	781-86	299-86	
37	HB 1996	770-86	125-86	
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38	HB 2029	632-86	354-86	
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40	HB 1739	635-86	324-86	
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43	SB 1538	495-86	848-86	
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46	SB 2063	462-86	853-86	
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<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
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52	SB 1573	429-86	851-86	
53	SB 2300	317-86	850-86	
54	SB 2325	163-86	682-86	
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55	SB 1794	285-86	840-86	
56	SB 2056	461-86	849-86	
57	SB 2159	308-86	839-86	
58	SB 2206	307-86	841-86	
59	SB 1561	359-86	717-86	
			874-86	
60	SB 1624	98-86	668-86	
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61	SB 1625	53-86	632-86	
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62	SB 1629	330-86	631-86	
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63	SB 1643	50-86	627-86	
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64	SB 1646	333-86	760-86	
65	SB 1652	108-86	696-86	
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66	SB 2002	39-86	648-86	
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67	SB 2296	354-86	757-86	
68	SB 2314	89-86	716-86	
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70	SB 2471	88-86	646-86	
		345-86	784-86	
71	SB 52	176	314-86	
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72	SB 159	190	711	
		384	774-86	
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74	SB 1572	460-86	653-86	
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75	SB 1655	464-86	691-86	
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77	SB 1998	79-86	654-86	
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78	SB 2095	147-86	686-86	
		341-86	798-86	
79	SB 2126	411-86	745-86	
80	SB 2268	450-86	766-86	
81	SB 2277	499-86	655-86	
			822-86	
82	SB 2295	367-86	650-86	
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83	SB 2315	370-86	707-86	
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<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
88	SB 2468	133-86 265-86	813-86	
89	SB 2481	387-86	753-86	
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91	SB 718	476-86	706-86 775-86	
92	SB 970	430-86	692-86 776-86	
93	SB 2091	338-86	746-86	
94	HB 107	398-86	265 515	
95	SB 1033	20-86 111-86 262-86	667-86 867-86	
96	HB 1795	849-86	277-86	
97	HB 1859	848-86	307-86	
98	HB 2005	870-86	335-86	
99	HB 2037	841-86	103-86 506-86	
100	HB 2110	845-86	105-86 504-86	
101	HB 2375	843-86	363-86	
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103	HB 1802	872-86	495-86	
104	HB 1903	840-86	619-86	
105	HB 2024	514-86 665-86	16-86 449-86	
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151	HB 2051	644-86	350-86	
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343	HB 2007	771-86	338-86	
344	SB 2308	343-86	816-86	SC 70-86 HC 69-86
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Thirteenth State Legislature
1986 Regular Session

Key: Am = Amended
N = New
R = Repealed
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